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REPORTER'S RECORD

VOLUME 46 OF 57 VOLUMES

TRIAL COURT CAUSE NO. F09-59380-S

CASE NO. AP-76,458

THE STATE OF TEXAS : IN THE 282ND JUDICIAL
VS. : DISTRICT COURT OF
GARY GREEN : DALLAS COUNTY, TEXAS

TRIAL ON THE MERITS BY JURY

On the 26th day of October, 2010, the following
proceedings came on to be heard in the above-entitled and
numbered cause before the Honorable Andy Chatham, Judge
Presiding, held in Dallas, Dallas County, Texas:

Proceedings reported by machine shorthand computer
assisted transcription.

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1 PROCEEDINGS

2 THE COURT: All right. The Court calls Cause

3 Number F09-59380, the State of Texas versus Gary Green. The

4 case is set today for trial.

5 The State ready?

6 MR. BEACH: The State's ready, Your Honor.

7 THE COURT: Defense ready?

8 MR. JOHNSON: Defense ready, Your Honor.

9 THE COURT: The jury is not now present. I

10 think it would be prudent at this time to do a formal

11 arraignment.

12 (Brief pause.)

13 (Arraignment by the Court.)

14 THE COURT: Okay. Mr. Green, what we're doing

15 right now is -- is called the formal arraignment. This is when

16 I formally inform you of what you're -- what you're charged

17 with, and then I'm going to ask if you understand what you're

18 charged with. And then I'm going to ask that you enter a plea.

19 And you can make three different types of pleas in any -- in

20 any case. You can either plead guilty, not guilty, or no

21 contest to these charges.

22 But it is alleged that on or about the 21st day

23 of September, A.D., 2009, in the County of Dallas and State of

24 Texas, that you unlawfully then and there intentionally or

25 knowingly caused the death of an individual, to-wit: Lovetta

6

1 Armstead, by stabbing Lovetta Armstead with a knife, a deadly

2 weapon, or by asphyxiating Lovetta Armstead, and during the

3 same criminal transaction said Defendant did then and there

4 intentionally or knowingly cause the death of another

5 individual, to-wit: Jazzmen Montgomery, by drowning or

6 asphyxiating Jazzmen Montgomery. Against the peace and dignity

7 of the State.

8 There are two enhancement paragraphs to this

9 case, but those are somewhat irrelevant in this -- in this

10 matter. This case is a capital murder case. The options, if

11 you are found guilty in this matter, are either life in prison

12 without the possibility of parole or if the jury so finds, the

13 death penalty. Have you had an opportunity to discuss these

14 charges with your attorney?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand what you are

17 charged with in this case?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you understand the effect of a

20 guilty verdict or a guilty plea in this matter?

21 THE DEFENDANT: Yes.

22 THE COURT: To the charge as -- as alleged, how

23 do you plead?

24 MR. JOHNSON: Not guilty.

25 THE DEFENDANT: Not guilty.

1 (Not Guilty Plea Entered.)

2 THE COURT: Not guilty plea is entered for the

3 record. You may be seated.

4 MR. JOHNSON: Your Honor, at this time could I

5 make a -- I'd like to question the Defendant, make a record.

6 THE COURT: You may.

7 MR. JOHNSON: Can he be sworn for limited

8 purposes?

9 THE COURT: Sure.

10 Sir, if you'd raise your right hand.

11 (Defendant additionally sworn.)

12 THE COURT: Okay. Please proceed.

13 GARY GREEN,

14 the defendant, was called as a witness in his own behalf, and

15 after having been previously duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. JOHNSON:

18 Q. State your name, please.

19 A. Gary Green.

20 Q. And, Gary, as the Judge just formally read you the

21 charging instrument in this case, there's just a few things I

22 want to cover on the record to begin with. This crime happened

23 a little over a year and couple of months ago, and I was

24 appointed immediately to represent you on this case, and you

25 and I have talked about it, you and I have stayed in touch. In

8

1 fact, we've spent pretty much the last two and a half months

2 together on a daily basis; is that correct?

3 A. That's correct.

4 Q. And even prior to that -- those portions of the

5 proceedings, we had met, visited, and you have had occasions to

6 meet with several doctors and a psychologist, people that I've

7 hired and retained to assist and consult with me in the

8 preparation of any defensive issues that might be applicable in

9 your case; is that right?

10 A. Yes.

11 Q. And you have cooperated with those individuals, and

12 you have been made aware by me of the efforts that not only

13 myself but that Mr. Wyatt and Mr. Warren were making on behalf

14 of you and talking to people that you know, people from your

15 background and childhood, people from your more immediate past,

16 and talking to people that might have information that might be

17 relevant on any of the issues that would be before the Court in

18 this case. And you understand those things; is that right?

19 A. Yes, sir.

20 Q. We spent the last couple of months selecting a jury

21 to hear this case. You were present for all those proceedings.

22 You and I discussed with other co-counsel, we discussed all the

23 different people that we either agreed upon or objected to, and

24 those were decisions that we made as a group; is that right?

25 A. Yes.

1 Q. As we come here today, the Court has asked us for an
2 announcement of ready to stand trial, and that means that all
3 the preliminaries and everything is over with. And at this
4 point we move forward and address the two issues at hand, the
5 first issue being guilt. And we have formally entered a plea
6 of not guilty to this indictment. Second issue being, if we
7 get to that point, which we expect to, is the issue of what the
8 appropriate punishment would be. And on your behalf a moment
9 ago, at the Court's request, I had indicated to the Court that
10 the Defense was announcing ready for trial. And you understand
11 that?

12 A. Yes.

13 Q. And, in fact, you have instructed me that you are
14 ready for trial, correct?

15 A. Yes.

16 Q. You are comfortable and confident at this point in
17 time that we have discussed, we have talked about, and that we
18 have pursued any appropriate leads or things that -- tried to
19 find evidence that might be relevant and applicable in your
20 case; is that right?

21 A. Yes, sir.

22 Q. In fact, everybody you've asked me to try to contact
23 or try to find, I've tried to find -- I've tried contact, tried
24 to find; is that right?

25 A. Yes.

10

1 Q. And, in fact, tried -- found a lot of folks you'd
2 even forgot about; is that correct?

3 A. Yes, sir.

4 Q. Okay. So you're comfortable and confident that at
5 this point in time that on behalf of the entire Defense counsel
6 in this case, that you are instructing us to announce ready on
7 your behalf?

8 A. Correct.

9 MR. JOHNSON: Your Honor, that's all I have.

10 THE COURT: All right. Thank you.

11 MR. BEACH: Before we bring the jury in -- is
12 that the next step?

13 THE COURT: That's the -- that's the next step.

14 MR. BEACH: I would like permission of the Court
15 to instruct family members and other folks here.

16 THE COURT: That's what I was fixing to do. You
17 can go ahead, too. They like you better than me so far, so you
18 might as well --

19 MR. BEACH: I doubt it, but --

20 We've talked about this, but if you're going to
21 sit in here starting like the next two or three minutes -- I
22 know that you will because I know y'all are good people -- I
23 know you want to see justice done in this case, but you have to
24 behave yourself. If you feel the emotions starting to rise or
25 something going on, just get up and walk out, cool off,

1 whatever, okay? And there are situations here starting this
2 morning where there are going to be some very, very bad
3 photographs. And so if you don't think you can handle looking
4 at the photographs, you can look down, again, go back out in
5 the hallway, okay? But for you to be able to stay in here,
6 you've got to assure the Court and the attorneys that there
7 isn't going to be any kind of drama, okay? Everybody
8 understand that? All right, very good.

9 MR. JOHNSON: Your Honor, we're going to ask
10 also that the Court instruct everyone in the courtroom in
11 regards to -- if there's any kind of visible showing of support
12 or agreement or disagreement with any of the testimony, we're
13 going to ask that the Court formulate a rule that those
14 individuals would be removed from the courtroom and not allowed
15 to reenter.

16 THE COURT: Right. This isn't a sporting event,
17 folks, not allowed to cheer. And it's hard -- and I know it's
18 hard, but you have to maintain your composure throughout this,
19 because I'll simply -- there's certain court rulings from the
20 Courts of Appeals that say emotional outbursts from the gallery
21 are -- are grounds for a mistrial. And I -- we could have to
22 start this whole thing all over again, and nobody wants that.
23 We want to try this one -- one time, so I need your cooperation
24 in this matter, that if -- no matter how much you want to say
25 something or do something, you can't. Leave, walk out, and

12

1 we'll let you -- we'll let you come back in, but if you screw
2 it up, there -- there is a chance that you won't be allowed
3 back in.

4 MR. JOHNSON: Your Honor, also --

5 THE COURT: Does anybody have any -- real quick,
6 does anybody in the gallery have any questions about that?
7 Just wanted to make sure. Okay.

8 Go ahead.

9 MR. JOHNSON: Your Honor, at this time, also,

10 the -- want the record to reflect that we do intend to invoke
11 the Rule of witnesses. And that by agreement of the parties,
12 that both parties have agreed that family members, even though
13 it's members of the family who we do anticipate may be
14 witnesses in the case, we are going to allow those to remain in
15 the courtroom for testimony, as long as they follow the rules
16 of decorum set down by the Court. And so we want -- I want the
17 record to reflect that the State has waived and agreed to that
18 in regards to not only my witnesses, but that we've agreed to
19 it in regards to the fact that they only have, I believe, one
20 witness in the courtroom that's a family member that's going to
21 testify and then ask to remain in the courtroom.

22 MR. BEACH: That's correct.

23 THE COURT: Okay. Thank you all.

24 Oh, one other thing. If you all happen to see a
25 juror on an elevator or downstairs in the cafeteria, just in

1 the hallway, don't talk to them. You may want to. Even if
 2 you're on the same elevator and they -- they engage you, just
 3 politely put your head down and just say, I can't talk to you.
 4 We don't want to have even the -- even the possibility of an
 5 allegation of -- of improper juror contact. I'm sure it won't
 6 be intentional, but just in an abundance of caution, just put
 7 your hands up and say, I know you're a juror on the case and I
 8 -- I can't talk to you. I don't think it will come up, but
 9 just in an abundance of caution, I thought I should bring that
 10 up.

11 I think we're ready.

12 MR. JOHNSON: Judge, last thing before we begin
 13 formally, I would request under 38.22, subsection 6, that in
 14 regards to the Court's ruling in -- to the voluntariness of the
 15 Defendant's confession, I think it's required that the Court
 16 introduce or make formal findings of facts in regards to the
 17 voluntariness. And we don't necessarily need that to be done
 18 right this moment.

19 THE COURT: I thought I did that yesterday.

20 MR. JOHNSON: You made your conclusions of law,
 21 but you didn't make any findings of fact.

22 THE COURT: All right. I mean, I thought --
 23 okay. I guess I can make it clearer.

24 MR. JOHNSON: And I'm not saying that it needs
 25 to be done right this minute. We just ask that that be done at

14

1 some point in the proceedings so it will be included in the
 2 record for appellate purposes.

3 THE COURT: Okay. Y'all are -- I'll tell the
 4 State to prepare a proposed findings of fact then.

5 MR. BEACH: We'll do that, Judge.

6 THE COURT: Okay. That's just something less
 7 now I have to do, but -- so -- I'll make sure it's what I
 8 really believe, not just their version of it.

9 MR. BEACH: Do you want it illustrated?

10 THE COURT: I'm sorry? I'm sure it was funny, I
 11 just wasn't paying attention.

12 All right. Let's bring the jury in.

13 MR. JOHNSON: Judge, do you want the Defendant
 14 to rise when the Defendant's arraigned outside the presence?

15 THE COURT: No, I'll tell everyone to stay
 16 seated. You're going to be entering a plea on his behalf and I
 17 make that clear to the jury that you will be the one doing it.

18 THE BAILIFF: All rise.

19 (Jury brought into courtroom.)

20 THE COURT: All right. If you all could -- the
 21 jurors can remain standing, but the gallery can be seated.

22 Ladies and gentlemen, the first thing we do in
 23 all these cases is that we get you sworn in as jurors. And if
 24 you'd raise your right hand.

25 (Jury finally sworn.)

1 JURORS: I do.

2 THE COURT: All right. Please be seated.

3 Other protocol. When we bring you in to the
 4 room, we will all be standing. You all simply come in and sit
 5 down. We are standing for you. That is -- that's the time
 6 honored tradition, and I am not about to start betraying that
 7 tradition. So you all just come in and sit down, and then I
 8 will have everyone be seated.

9 The order of the case roughly is going to be --
 10 the first thing that happens is that the State's attorney will
 11 arraign or formally inform Mr. Green of what his charges is,
 12 and we will affix his plea. "Affix" is a fancy word of enter.
 13 And that will be done by his attorney, according to the Rules
 14 of Criminal Procedure. And at that point each side will have
 15 an opportunity, if they wish, to make an opening statement.
 16 What the lawyers say is not evidence. It is simply a road map
 17 of what they think the evidence is going to be in the case.

18 The State will then have -- put on witnesses in
 19 their case in chief. Then the Defense will then put on
 20 witnesses, if they wish -- they're not required to -- in their
 21 case in chief. Then the evidence will close, and each side
 22 will make their final argument. And then if the -- in the
 23 event of a guilty verdict, we will then proceed into the
 24 punishment phase of the case.

25 Do not make up your mind. This is a -- what's

16

1 called a bifurcated system. The first part is guilt or
 2 innocence. The second part is the punishment phase. Do not
 3 make a decision as to what -- before you've heard all of the
 4 evidence, meaning don't decide after opening statement what --
 5 what your verdict is going to be, either in the guilt/innocence
 6 or in the punishment. You need to wait and hear all of the
 7 evidence before you make a decision. Evidence comes from the
 8 witness chair or exhibits that -- pieces of paper, pair of
 9 glasses, a pen, physical evidence. And it can come from the
 10 form of testimony coming from the chair, be it -- might be what
 11 we call an expert witness testimony. It's not necessarily --
 12 it doesn't mean that the -- they know what they're talking
 13 about. Expert testimony is a term -- a legal term.

14 You are the exclusive judges of the evidence and
 15 the testimony that's given, so you make that determination.

16 What is not evidence. Newspaper columns, like
 17 the one this morning. Don't read the paper. And I know the
 18 first thing that you're going to make -- you're going to --
 19 people go do, wow, there's something in the paper, I'm going to
 20 go read it now. Don't read the paper about this case. Read
 21 about the Rangers. You can do that. Watch the Rangers. This
 22 case is going to be -- it's in the news. We know that. Don't
 23 pay any attention to it. If your neighbor calls up and says,
 24 hey, how is jury duty, you say, I can't talk about it. Do not
 25 go on the internet. The internet, believe it or not, will

1 sometimes get it wrong. I know that's hard to believe, but it
 2 has a way of -- well, anyway, the witness -- the witness chair
 3 is where you're going to get the evidence in the case. That's
 4 where you need to make the decision -- not something you read
 5 online, not something you hear about in the paper, not
 6 something you read or hear about from a neighbor. Please,
 7 please, focus the case on what you hear in the courtroom, and
 8 in the courtroom only, because if we find out later -- and
 9 there are cases of this, not in here, not in Dallas, that I
 10 know of -- but in -- in New York because this was a big story
 11 in the New York Times that a -- a huge case had to be redone
 12 because a juror went online and read a bunch of things and that
 13 influenced their decision. So it's very serious, and the case
 14 will get overturned. We will have to do it again if you don't
 15 follow these instructions specifically regarding making a
 16 decision with outside influences and things like that.
 17 You all will be down here for a while. You'll
 18 see people in the gallery. If you see them out in the hallway
 19 and they simply just walk away, they're not being mean. I've
 20 told them to. If you get on the elevator and you see the
 21 lawyers and the lawyers go, no, I'll take the next one.
 22 They're not being mean. Why? Well, I told them to. We don't
 23 want to have any possibility of even the appearance of
 24 impropriety of a lawyer or a witness or somebody approaching a
 25 juror. So -- so that's why I tell everyone just walk the other

18

1 way, and -- because they all know who you are, and you know who
 2 they are. So just understand why we don't have any contact
 3 like that.
 4 You see the camera in the courtroom? I like
 5 cameras in the courtroom. Why? Because that means this is an
 6 open and fair proceeding. I think it's very important that the
 7 courtrooms are open to the public. Anyone can come down here
 8 and watch, and I also think that it's important that we have
 9 exposure to show that what we're doing is -- is open and fair.
 10 The TV cameras will not be showing you. You will not be shown.
 11 I've told the cameramen, they -- they know me because I've
 12 talked to them and we allow the cameras in the courtroom and
 13 they know, the cameraman is going to jail, his producer is
 14 going to jail, the weatherman is going to jail until I figure
 15 out whose fault it is for putting a juror on television. So
 16 they know. So you don't have any risk whatsoever of being on
 17 television.
 18 I think that covers all the groundwork. If you
 19 all have any -- any questions, if anyone needs a break, raise
 20 your hand and --
 21 MR. JOHNSON: We have a matter we need to talk
 22 to the Court about.
 23 THE COURT: -- right now --
 24 MR. JOHNSON: Yes, sir.
 25 THE COURT: -- or can it wait 30 seconds.

1 MR. JOHNSON: Yes, sir. It can wait 30 seconds.
 2 THE COURT: Oh, it can wait 30 seconds. Okay.
 3 We take breaks from time to time. That's
 4 expected, and that's okay. Don't concern yourselves with why
 5 we do these breaks, just understand they're necessary. None of
 6 these lawyers are frivolous or make frivolous arguments. They
 7 all -- they're all experienced, and we all know each other,
 8 too. There's a certain amount of familiarity that -- that we
 9 do have in here, and it's simply because, well, we know each
 10 other. And rather than doing some type of false formality, I'm
 11 going to try to -- try to keep this as familiar as possible.
 12 If anyone needs a break and you can't get my
 13 attention, stand up.
 14 So -- so before we arraign Mr. Green, I'm going
 15 to ask that you all retire back to the jury room, and we'll get
 16 started here in the next five or ten minutes. Thank you all so
 17 much.
 18 THE BAILIFF: All rise.
 19 (Jury excused from courtroom.)
 20 (Sidebar conference.)
 21 (Retire to Judge's Chambers.)
 22 THE COURT: Hi, come on in, please. Have a seat
 23 right here. Pull that door shut, would you, Tony?
 24 Okay. I'm not -- I'm not embarrassed, but I
 25 don't know how to do this. You were in the courtroom

20

1 apparently this morning when we walked in. And I didn't see
 2 you come in. I don't know how long you were there. Do you
 3 know how long you were in the courtroom before we started?
 4 JUROR: About 20 minutes, I guess.
 5 THE COURT: Do you know about what time, from
 6 when to when? Was it after 9 o'clock?
 7 JUROR: Yeah, it was 9:00 to about 9:00 -- when
 8 I looked at the clock, it was about 9:12, something like that.
 9 THE COURT: Okay. So you got there, you saw me
 10 walk in?
 11 JUROR: I saw you walk in, yeah.
 12 THE COURT: Okay. You saw, I think, Mr. Johnson
 13 running in and out of the room a few times. Mr. Green wasn't
 14 in the room. You saw Mr. Healy talking with Defense counsel.
 15 Did you see or hear anybody talking about the case, the facts
 16 of the case?
 17 JUROR: No, I was pretty much in my own world.
 18 I was pretty much looking down. I saw him once.
 19 MR. JOHNSON: I asked you your name.
 20 JUROR: He asked my name.
 21 THE COURT: We want everyone to hear the
 22 evidence at the same time, not have a preformulated opinion or
 23 hear something they weren't supposed to hear before the trial
 24 started, but do you recall anything that happened in the
 25 courtroom aside from some of the irreverence --

1 JUROR: I heard the cameraman -- you tell him
 2 you would put him in jail.
 3 THE COURT: Okay.
 4 JUROR: Other than that, no.
 5 THE COURT: Do you have any -- anybody have any
 6 questions? I don't think it's wrong for you to ask questions.
 7 MR. JOHNSON: Once I saw you in the jury box
 8 (sic), I asked you -- I asked you who you were, because I
 9 recognized you out there and I was in and out all morning, so I
 10 didn't know how long you were there. A lot of times lawyers
 11 say things back and forth to each other. I want to make sure
 12 as a juror you haven't seen or heard anything in the court that
 13 would cause you to form any opinions at this point in time.
 14 JUROR: No, actually I was looking down most of
 15 the time.
 16 MR. JOHNSON: That's fine. That's all we had.
 17 THE COURT: That's fine. If the other jurors
 18 ask why you got brought back here, tell them.
 19 MR. BEACH: She's special.
 20 THE COURT: Because they are going to want to --
 21 tell them, hey, I went into the courtroom and sat in there.
 22 JUROR: They knew when I came into the jury
 23 room, they said they knew my name. I said, yeah, I was sitting
 24 out in the courtroom.
 25 THE COURT: The Judge wants to make sure you

22

1 didn't hear anything, weren't -- you know, that would cause you
 2 to prejudge anything. So just tell them why you came back
 3 here.
 4 MR. BEACH: Thank you, Your Honor.
 5 MR. JOHNSON: Thank you, ma'am.
 6 THE COURT: Thank you so much.
 7 (Juror excused from chambers.)
 8 MR. BEACH: Okay. Obviously, Judge, based on
 9 what she heard, doesn't sound like she should be disqualified,
 10 so I think both sides, we need to proceed with her.
 11 MR. JOHNSON: That's correct. I don't have any
 12 problem.
 13 MR. BEACH: Okay. I just wanted to put that on
 14 the record.
 15 (Return to courtroom.)
 16 THE COURT: I think we're ready. All right.
 17 Try again.
 18 (Discussion off the record.)
 19 THE BAILIFF: All rise.
 20 (Jury returned to courtroom.)
 21 THE COURT: All right. Thank you all. Please
 22 be seated.
 23 All right. Ladies and gentlemen, that obviously
 24 was a housekeeping matter. We take them from time to time, and
 25 that's -- that's okay. You want us doing that, because

1 normally what happens is you all go out and then we start
 2 talking about other things. I can -- I can say we've already
 3 saved 15 minutes this morning by some -- some agreements that
 4 we had while you all were out there, so that worked out okay.
 5 Please arraign the Defendant.
 6 MR. BEACH: May it please the Court.
 7 May it please you, members of the jury. My name
 8 is Andy Beach. I'm Assistant Criminal District Attorney here
 9 in Dallas County. It's my responsibility at this time to read
 10 to you the true bill of indictment. As the Judge will tell
 11 you, it's no evidence of guilt in this case. It simply tells
 12 me what I have to prove beyond a reasonable doubt, and it tells
 13 the Defendant what he's charged with. It reads as follows:
 14 "True bill of indictment. In the name and by
 15 the authority of the State of Texas, the grand jury of Dallas
 16 County, State of Texas..."
 17 (Indictment read by Mr. Beach.)
 18 MR. BEACH: "...against the peace and dignity of
 19 the State. It's signed by Craig Watkins, Criminal District
 20 Attorney of Dallas County, Texas, and by the foreperson of the
 21 grand jury."
 22 THE COURT: Mr. Johnson, to that charge, how
 23 does your client plead?
 24 MR. JOHNSON: Your Honor, ladies and gentlemen,
 25 the Defendant will formally enter a plea of not guilty.

24

1 (Not Guilty Plea Entered.)
 2 THE COURT: Thank you.
 3 The State wish to make an opening statement?
 4 MR. BEACH: Yes, Your Honor.
 5 THE COURT: Please proceed.
 6 (Opening Statement by Mr. Beach.)
 7 MR. BEACH: May it please the Court, again,
 8 counsel.
 9 Members of the jury, this is my opportunity to
 10 preview the evidence that the State of Texas is going to bring
 11 to you in this capital murder prosecution and the best I can to
 12 prepare you for the abject horror choreographed by Gary Green
 13 at 3844 Morning Springs Trail back on September 21st of 2009.
 14 What you're going to hear, the first victim,
 15 Lovetta Armstead, was 32 years old. She was a graduate of
 16 DeSoto High School. She went to college out in Tyler. She was
 17 a substitute teacher in the DISD system. She worked at day
 18 care at Friendship West Baptist Church. You're going to hear
 19 that she was trying to get her teaching certificate. And that
 20 she met Gary Green outside of a club in 2007, and they quickly
 21 began a relationship. Gary moved in with Lovetta and her three
 22 children. Lovetta had three children. Gary had five children
 23 of his own. Gary wasn't working. Gary had other girlfriends,
 24 so you can imagine the relationship was tumultuous. It was a
 25 cycle of tranquility and then Lovetta kicking him out and then

1 reconciling, them getting back together.

2 The primary issue was Gary wouldn't work. He
3 just flat wouldn't work while she was working. And that was a
4 cause of friction in the relationship.

5 In April of 2007 -- in 2009, you will hear at
6 that time they were living at the house on Morning Springs
7 Trail, that Gary got a job, was actually working for a living
8 and in that in June of 2009 they got married there in the house
9 with Lovetta's family present. Got married there in the house.

10 Within three weeks of the marriage, Gary quit
11 his job, made a trip to Timberlawn, a psychiatric facility here
12 in Dallas, and immediately applied for Social Security
13 disability -- that is to get money from the government. Then
14 early September of 2009, Lovetta began the process -- realizing
15 she had made a mistake -- of getting the marriage annulled
16 because he wasn't going to work.

17 We know the week before the murders that she
18 kicked Gary out again, that he went to live with a friend of
19 his. The Wednesday before the murders, we know on Saturday,
20 September the 19th, two days before the murders, Lovetta's mom,
21 Margarita, who was a real estate agent on the side, showed her
22 a house out in Lancaster because Lovetta knew if this became
23 finalized, she was going to find a -- have to find a different
24 place to live. That's the last time Margarita saw her daughter
25 alive.

26

1 You're going to hear that on Sunday, one last
2 time, Lovetta let Gary Green back in the house. And he spent
3 Sunday night there. That Monday morning, Lovetta got ready to
4 go to work that day. She was going to be a substitute teacher
5 at her oldest son's school, at Atwell. Before she left that
6 morning, she wrote a one-page handwritten note to Gary. Very
7 nicely worded, I love you Gary, I know you love me, but this
8 isn't going to work. It's time for you to move out, and it's
9 time for us to get done with this so you don't have to be
10 dependent on no woman to make you happy. Tried to be nice,
11 left the note, came home later that day. Her youngest son
12 Jerrett had been suspended from school that day, so he's home
13 alone with Gary. He'll tell you that mamma came home a couple
14 of times that day.

15 Something happened during one of those times
16 where Lovetta wrote a second note, and you'll have that to read
17 and see -- that second note was a little more pointed. You
18 know, I tried to be nice, Gary, but this is the way you want
19 it. And, again, said, I've made up my mind. You're going to
20 get out today. And that is something the evidence is going to
21 show that Gary Green couldn't abide, because it was a nice
22 brick 3-2 house. He wasn't having to work. He can play his
23 video games. He had a nice setup, and she was telling him he
24 was going to have to leave.

25 We know sometime in the afternoon that Monday

1 afternoon of September 21st, Gary Green penned a five and a
2 half page missive explaining to Lovetta why that night he was
3 going to have to murder her. You wanted to see the monster,
4 now you're going to see the monster, bitch -- in his
5 handwriting, for your review, when you go back to deliberate
6 this case, and you'll see that here this morning.

7 Lovetta came home from work that day, got her
8 two boys ready to go to Friendship West for their Monday night
9 discipleship program. Took the boys, Jerome and Jerrett, and
10 that was the last time they ever saw their mother alive. She
11 came home that night. The evidence is going to show you that
12 when she got home, Gary Green gave her that five and a half
13 page letter, and she retired to her bedroom on her bed in her
14 house in her name to read this five and a half page letter.
15 And shortly thereafter, the evidence is going to show you that
16 Gary Green, with an assortment of butcher and kitchen knives,
17 came into that bedroom, got her -- his wife into the bathroom,
18 and began stabbing her over and over again, some 28 times with
19 assorted knives. One knife would break, he'd get another one
20 out.

21 But before he finished off his wife, that
22 32-year-old woman, the evidence is going to show you that she
23 fought and she fought with everything that she had, even to the
24 point where she actually was able to get a knife out of his
25 hand at some point in time during this apparently hour-long

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1 struggle and reach around and stab Gary twice in his left back
2 area, two superficial stab wounds. She got the commode lid off
3 the toilet and tried to hit him with it. It shattered all over
4 that bathroom floor.

5 Unfortunately, you're going to see photographs
6 of that bathroom floor where she bled out from those 28 stab
7 wounds. And it's a grisly sight. It was a slow, painful,
8 agonizing death. But she had to fight, you see, with
9 everything that she had, and you're going to hear not only did
10 she fight physically, she tried to use her brain. She tried
11 talking to him. She tried reasoning with him. You need to
12 stop this, Gary, you're not that kind of guy, just take me to
13 the hospital, take me to the hospital, and I'll tell somebody
14 it was a burglar. I won't even implicate you, anything she
15 possibly could to stop this murderous assault.

16 And why did she fight so hard? Why did she try
17 so hard? Because the second victim had a ringside seat to this
18 hour-long butchery. The second victim had duct tape on her
19 mouth, duct tape on her hands, and duct tape on her feet to
20 where she was bound and hogtied laying there on her mamma's bed
21 watching this man kill her mother. You see, the second victim
22 in this case was 48 inches long, 49 pounds in weight, 6 years
23 and 11 months in age, and she made it all the way to her 21st
24 day in first grade.

25 The second victim in this case is Lovetta

1 Armstead's baby girl. This is Jazzmen Montgomery. And after
2 he finished off her mother and drug the mother from the bloody
3 bathroom into the bedroom where he lay Lovetta there dead on
4 the bedroom floor, he went and filled up the bathtub with
5 water. And once he got that done, he went and he picked up
6 that little 49-pound girl and carried her into the bathroom and
7 submerged her head under that water and drowned her. And it
8 even affected the monster because he told the detective, oh,
9 yeah, she fought, and it was bad. It was so bad I had to turn
10 my head away. That 49-pound girl was no match for this
11 350-pound 38-year old man who was bent and intent on murdering
12 Lovetta Armstead and her 6-year-old baby.

13 After he got done murdering Jazzmen, he laid her
14 there on the bathroom floor, took off his bloody clothes from
15 the struggle with Jazzmen's mom, stepped over the dead body of
16 that six-year-old girl and took a shower because his plan was
17 not complete yet. And he showered there in the same bathtub
18 where he just got done drowning that masterpiece from God, that
19 little six-year-old, changed clothes, put on his church clothes
20 to go pick up those two boys at Friendship West because it was
21 Gary Green's plan, folks, not just to kill Lovetta Armstead,
22 not just to kill her six-year-old daughter, but to kill her two
23 sons, as well.

24 And he drove that four miles down Polk to
25 Friendship West out there off of I-20 and got there around 8:30

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1 that night in their mom's PT Cruiser and waited for the boys to
2 come out from their class. It was unusual for Gary to pick up
3 the boys. Mom always picked them up, but they got in the car
4 with Gary. He was acting normal, no problem, not acting mean,
5 and he took them on back to the house there at 3844 Morning
6 Springs Trail. Pulled into the garage, told the oldest boy,
7 JT, Jerome, to take a bath. Mamma told Gary to tell him to
8 take a bath, he wasn't smelling too good when he went to church
9 that night. JT obeyed, not knowing what was back there in that
10 master bedroom. JT starts his bath.

11 Little nine-year-old Jerrett, you'll see him.
12 He went to his bedroom, and shortly after getting to his
13 bedroom here, Gary called him into the kitchen. Come here,
14 Jerrett, and Jerrett obeyed. Jerrett went into the kitchen,
15 and Jerrett will tell you when he got in there, Gary grabbed
16 him by the neck and took one of those kitchen knives and kind
17 of started sawing on his neck, but luckily for Jerrett, Gary
18 had the dull side of the blade so it didn't cut his throat.
19 And Jerrett got away for a second and then Gary quickly stabbed
20 Jerrett in the stomach, drawing blood, and Jerrett started
21 screaming, JT, he's trying to kill me, JT, he's trying to kill
22 me. And the older brother poked his head out of the bathroom
23 to see this man pushing that little boy towards the bathroom.
24 And they all ended up in the bathroom there, Gary slamming that
25 little boy into the toilet, hollering at them, trying to stab

1 Jerrett again there in the bathroom.

2 But you're going to hear that little nine-year
3 old boy and you're going to get to meet him. You're going to
4 understand he is just a special young boy. And that special
5 young boy was able to accomplish something that his 32-year-old
6 mother could not accomplish that night. Something he said,
7 whether it was his presentation, whether it was in his words,
8 got through to Gary Green. Gary, we love you, we're too young
9 to die. You don't need to kill us. We're not going to tell.
10 Whatever that little boy could say, whatever it was, finally
11 penetrated into the meanness of this man, and he stopped. He
12 said, okay, I'm not going to kill you, I'm going to go kill
13 myself, and started playing that game. But before he did, he
14 took those two little boys back into that back bedroom and made
15 them look at their dead mother and made them look at their
16 little sister laying dead there on the bathroom floor. He told
17 those boys, I killed your mom because I loved her to death, and
18 I had to kill Jazzmen because she was going to tell it on me.
19 And he told the boys not to call 911 until he left or he'd come
20 back and kill them.

21 And Gary Green left the house that night with
22 those two little boys inside with those two dead ladies. He
23 left in the PT Cruiser. Those little boys called 911. You'll
24 get to hear the 911 tape -- 911 tape. You'll get to hear the
25 hysteria and just the unbelievable reaction of first JT and

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1 then Jerrett screaming into that phone, he killed my mamma, he
2 killed my mamma. They had the presence of mind to go next
3 door, knock on the neighbor's door, get ahold of their
4 neighbor, Latasha Bradfield. She's going to come and tell you
5 what these boys' physical and emotional condition was that
6 night when they came screaming and knocking at her door, and
7 how she finally took the phone from those boys and talked to
8 the 911 operator and went next door because of what those boys
9 had told her. And went in through that unlocked open front
10 door, and went back towards the bedroom, and got as far as the
11 bedroom door and she saw her friend there, her friend Lovetta
12 Armstead laying there, face turned purple, not breathing, and
13 she reported all this to the 911 operator. I'm not going to
14 touch anything, I'm leaving. She never got back to see the
15 little girl laying there on the floor. The police came out and
16 paramedics came out, and you will hear from them, how that
17 scene affected them.

18 Little Jerrett was taken to Children's Medical
19 Center that night, eventually had surgery on that stab wound
20 inflicted by his stepfather. And luckily it didn't penetrate
21 into the stomach cavity. He was able to be discharged from the
22 hospital the next day.

23 You will hear that in the interim while all this
24 was going on, while the family is finding out about the murder
25 of their two loved ones and Jerrett going to the hospital, Gary

1 Green is driving around town trying to kill himself. This
 2 350-pound man claims he took some Tylenol and some Benadryl.
 3 We don't really know how much he took, but obviously he didn't
 4 take enough. He ends up with his mother and his brother that
 5 night. They had been contacted by the police. They talked
 6 Gary into turning himself in because if he didn't, in all
 7 likelihood the Dallas Police Department were going to kill him
 8 out on the streets. So he turned himself in at the Southeast
 9 Substation. You'll hear from police officers out there who
 10 will tell you that mamma and brother and Gary walked into the
 11 Southeast Substation on Jim Miller about 2:15 that morning.
 12 And once they figured out what was going on, they arrested Gary
 13 Green. Because he had these two little superficial stab wounds
 14 on his back and claimed that he had tried to commit suicide,
 15 they took him to Parkland. You'll hear from the Parkland
 16 doctors, one of the Parkland doctors that treated him, he was
 17 there about four hours. He was acting normal, able to follow
 18 commands. They did his labs. They discharged him four hours
 19 after he came. He was taken from the Parkland Hospital to the
 20 Dallas Police Department where he's interviewed by a homicide
 21 detective by the name of Robert Quirk. And you'll see a
 22 videotaped confession -- about an hour and ten-minute
 23 confession that will just chill you to the core of Gary Green
 24 just very plainly and matter of factly telling how he killed
 25 his wife and his six-year-old stepdaughter and to his way of

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1 thinking why he did it.
 2 That's the evidence that we bring to you in this
 3 capital murder prosecution.
 4 THE COURT: Does the Defense wish to make an
 5 opening statement at this time?
 6 MR. JOHNSON: Briefly, Your Honor.
 7 THE COURT: Please proceed.
 8 (Opening Statement by Mr. Johnson.)
 9 MR. JOHNSON: May it please the Court.
 10 Counsel.
 11 Ladies and gentlemen, I'd like to take the first
 12 opportunity to welcome you back. I know some of you, it's been
 13 a few months since you were down here to the courthouse. I
 14 want to just take a moment to tell you, as the prosecutor said,
 15 this is an opportunity to tell you what we believe the evidence
 16 in this case is going to show. And I want to go back and tell
 17 you that as we did in the voir dire process that I believe
 18 every one of you were told that the things that you may see and
 19 that you may hear in this courtroom this week were going to be
 20 things that were horrible and that they were terrible and they
 21 were going to be tough to listen to and to look at. And I want
 22 to remind each one of you, and as the Judge did this morning, I
 23 want to ask you to make sure that as you hear of the horrible
 24 things that you're going to hear about, that we all in this
 25 courtroom understand that there's more than just one issue at

1 play in this courtroom.

2 We formally entered a plea of not guilty. We
 3 are fully aware of the evidence in this case. We're going to
 4 ask that as you see and hear things that are going to make you
 5 sick, that are going to disgust you, that you do not lose sight
 6 of all of the issues that we talked about. We spent a long
 7 time picking you to hear this case. We've got a lot of issues
 8 to talk about. I'm going to ask that none of you form a formal
 9 opinion as to the results of this case until you've heard all
 10 of the evidence that you may hear in this courtroom. Thank
 11 you.

12 THE COURT: The State ready to call its first
 13 witness?

14 MR. BEACH: Yes, sir.

15 THE COURT: Please do so.

16 MR. BEACH: The State will call Margarita
 17 Brooks.

18 She has not been sworn, Judge.

19 THE COURT: Everyone gets sworn in.

20 I can't raise my right hand. If you would raise
 21 your right hand, please.

22 (Witness sworn.)

23 THE COURT: Please have a seat.

24 Ma'am, if you would, would you pull that
 25 microphone all the way up to you and you can adjust it so that

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1 we can hear you. May sure to speak into the microphone so that
 2 everybody can hear you.

3 When you're ready.

4 MR. BEACH: I guess -- is there any way to get
 5 this room cooler? Like -- no? That's the only way. Outside
 6 your jurisdiction.

7 THE COURT: Outside my pay grade.

8 MARGARITA BROOKS,
 9 was called as a witness by the State, and after having been
 10 first duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. BEACH:

13 Q. Okay. State your name, please.

14 A. Margarita Brooks.

15 Q. And, Margarita, you are the mother of Lovetta
 16 Armstead; is that correct?

17 A. Yes.

18 THE COURT: Actually, Andy, there is a way to
 19 get it cooler.

20 Will you prop that door open just a little bit
 21 -- about this much.

22 JUROR: Okay.

23 THE COURT: Open that door up in the back about
 24 the same amount, if you would. Thank you, Pat.

25 Just about that -- that -- sometimes that works,

1 Andy. Okay. Go ahead.

2 Q. (BY MR. BEACH) Margarita, where were you born and

3 raised?

4 A. Excuse me, I'm sorry? I didn't hear you.

5 Q. Where were you born and raised?

6 A. Peoria, Illinois.

7 Q. Okay. So the folks on the jury that don't know, me

8 being from Illinois, is that where Richard Pryor was -- grew

9 up?

10 A. Yes.

11 Q. And how long did you spend up in the -- in the

12 Midwest -- part of your life was spent up there?

13 A. Most of my life.

14 Q. Okay. When was Lovetta born?

15 A. August 12th, 1977.

16 Q. Okay. And do you have other children besides

17 Lovetta?

18 A. Yes.

19 Q. And how many other children do you have?

20 A. I have two other children.

21 Q. Okay. And who are they?

22 A. Demetrius Armstead and Jeanette Brooks.

23 Q. Okay. And is Demetrius in the courtroom right now?

24 There he is right there.

25 A. Yes.

1 Q. That's your -- your second born; is that correct?

2 A. Yes.

3 Q. And Jeanette, she's a teenager?

4 A. Yes.

5 Q. And you adopted her; is that correct?

6 A. Yes.

7 Q. Okay. Now, what brought you from the Midwest down

8 to Texas eventually?

9 A. I worked for Greyhound Lines, and I transferred from

10 Des Moines, Iowa, to Texas.

11 Q. And how old was Lovetta when you transferred down to

12 Dallas?

13 A. I believe she would have been about 16.

14 Q. Okay. And she graduated from DeSoto High School; is

15 that correct?

16 A. Yes.

17 Q. And did Lovetta, after graduating from DeSoto, did

18 she -- did she go to college?

19 A. Yes.

20 Q. What was the first college that she went to?

21 A. Prairie View.

22 Q. And that didn't work out too well for her; is that

23 right?

24 A. Right.

25 Q. What happened?

1 A. She went at a very young -- she graduated in her

2 senior year early, and she went half a semester at Prairie

3 View, and she didn't do well with her grades. And shortly

4 after that, she conceived JT, and she went to a program for

5 single parents and transferred to Tyler.

6 Q. Okay. And did she actually get a four-year degree

7 from the college over there in Tyler?

8 A. Texas College in Tyler, Texas.

9 Q. And primarily what kind of work was Lovetta

10 interested in doing?

11 A. Education.

12 Q. And had she -- had she taught full time?

13 A. Yes.

14 Q. And where did she teach full time?

15 A. At Gateway Charter School.

16 Q. Okay. And in the last year or so of her life, was

17 she doing some substitute teaching working for DISD?

18 A. Yes.

19 Q. And she also attended Friendship West Baptist

20 Church; is that correct?

21 A. Yes.

22 Q. And did she work there part-time in the day care?

23 A. Yes.

24 Q. Is that where her boys went?

25 A. Yes.

1 Q. During the week at night?

2 A. Yes.

3 Q. Now, you told us JT was -- when was he born?

4 A. August the 12th, 1997.

5 Q. So he was born on Lovetta's 20th birthday?

6 A. Yes.

7 Q. And Jerrett, the next -- next boy, when was he born?

8 A. He was born June 2nd of 2000.

9 Q. Okay. And then the little girl, Jazzmen, that

10 they've seen a photograph of, when was she born?

11 A. October the 3rd of 2002.

12 Q. Okay. And was she born over -- over in that -- in

13 the Tyler area while Lovetta was going to school over there?

14 A. Yes, she was born in Jacksonville.

15 Q. Now, Lovetta met a man by the name of Gary Green in

16 the year 2007; is that correct?

17 A. Yes.

18 Q. And did you meet Gary Green shortly after he moved

19 in with Lovetta and her children?

20 A. Yes.

21 Q. I'm going to ask you this one time, Margarita, to

22 look around the courtroom. Do you see Gary here in court

23 today?

24 A. Yes.

25 Q. And is he the man at the end of the counsel table in

1 the dark suit?

2 A. Yes.

3 Q. It's the man you saw numerous times between when you
4 first saw him in 2007 and in the days leading up to Lovetta's
5 and Jazzmen's murders; is that correct?

6 A. Yes.

7 MR. BEACH: Let the record reflect, Your Honor,
8 that the witness has identified the Defendant in open court.

9 Q. (BY MR. BEACH) Now, you heard my opening statement.
10 Did I characterize their relationship accurately?

11 A. Yes.

12 Q. I mean, very tumultuous, love, hate; is that
13 correct?

14 A. Yes.

15 Q. What -- based on everything that you observed and
16 saw, what was the primary issue with Lovetta in her
17 relationship with Gary?

18 A. That Gary didn't work.

19 Q. And was that a source of contention really from the
20 time they started living together?

21 A. Yes.

22 Q. Now, they got married in her house there on Morning
23 Springs Trail in June of 2009, about three months before she
24 was murdered; is that correct?

25 A. Yes.

42

1 Q. And did you attend that -- that wedding?

2 A. Yes.

3 Q. That wedding excite you or make you happy?

4 A. I was very disappointed.

5 Q. At that time, to your understanding, was Gary, in
6 fact, gainfully employed?

7 A. Yes.

8 Q. And he was working for a corporate battery repair
9 company as far as you knew; is that correct?

10 A. Yes.

11 Q. And was that something, to your knowledge, that
12 Lovetta thought was a good thing and maybe he'd kind of change
13 his ways?

14 A. Yes.

15 Q. And did you learn shortly after they got married
16 there in the house, that Gary had quit his job?

17 A. Yes.

18 Q. And how did that make Lovetta feel?

19 A. She was upset about him quitting the job and about
20 having financial --

21 MR. JOHNSON: Judge, I'm going to object to
22 hearsay.

23 THE COURT: Exception?

24 MR. BEACH: I'm sorry?

25 THE COURT: Is there an exception?

1 MR. BEACH: State of mind, Judge.

2 THE COURT: The objection is overruled.

3 Ladies and gentlemen, it's being offered to show
4 the state of mind of the person, not necessarily being offered
5 for the truth.

6 Please continue.

7 Q. (BY MR. BEACH) And, again, Ms. Brooks, is it your
8 understanding in September of 2009, in the days leading up to
9 the murders there on Morning Springs Trail, that Lovetta had
10 taken action in terms of getting the marriage annulled?

11 A. Yes.

12 Q. That week leading up to the murders, Ms. Brooks, was
13 it another situation where Lovetta had gotten Gary out of the
14 house?

15 A. Yes.

16 Q. And that had happened before; is that correct?

17 A. Yes.

18 Q. You knew about Lovetta's attempts to start the
19 annulment process by then?

20 A. Yes.

21 Q. That Saturday, two days before your daughter and
22 your granddaughter were murdered there in the house, did you
23 see Lovetta that Saturday?

24 A. Yes, I did.

25 Q. And what was your purpose for seeing your daughter

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1 on that Saturday?

2 A. To show her a property that she wanted to lease so
3 that she could move out of the house on Morning Springs.

4 Q. Okay. And the jury is going to see this here in a
5 bit, but just generally what part of the City of Dallas is --
6 was 3844 Morning Springs in? And what kind of major streets is
7 it near?

8 A. Oak -- it's in Oak Cliff off of Polk and Highway 67.

9 Q. Okay. Right there off of Polk and Highway 67, and
10 the house that you showed your daughter in Lancaster, obviously
11 Lancaster is quite a distance from Polk and 67?

12 A. Yes.

13 Q. I'm going to take you to that night, Ms. Brooks,
14 September 21st, 2009, that Monday night, and ask if you were
15 getting into your bath that night?

16 A. Yes.

17 Q. And did you hear your husband say something?

18 A. Yes. I heard my husband say, they're dead. Who?
19 Lovetta and Jazzmen. And --

20 Q. What did you do?

21 A. I just remember grabbing the phone and hearing
22 somebody on the other end hollering and screaming and never
23 making sense, and so I just grabbed my housecoat and I just
24 jumped in my car and I went to Lovetta's house.

25 Q. You went there by yourself?

1 A. Yes.
 2 Q. When you got there, what was the scene like, Ms.
 3 Brooks?
 4 A. Police and Fire Department and everybody in front of
 5 the house. And when I started to try to get in the house, they
 6 wouldn't let me go, and they wouldn't tell me anything. I just
 7 knew -- I don't know -- I just lost it.
 8 Q. When you found out it was confirmed to you that, in
 9 fact, your daughter and your granddaughter were, in fact,
 10 deceased, what do you remember doing?
 11 A. I remembered them saying, it's two females in there
 12 dead, one about 32, and the other one about six. And I just
 13 remember falling in the street right there and just crying.
 14 And it was raining and it was storming and just police
 15 everywhere and people up in front of the house. I don't know
 16 who they were. I just remember it just being chaotic and just
 17 being out of it, just wanting to see my baby.
 18 Q. They didn't let you in the house, did they? And by
 19 then did you know that your youngest grandson had been stabbed?
 20 A. Yes. They told me the boys were going to the
 21 hospital. The police say, why don't you just go to the
 22 hospital, that's where the boys are at. And I just didn't want
 23 to leave. I just wanted to stay right there until I could see
 24 my daughter and my granddaughter.
 25 Q. Did you eventually take the police's advice and your

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1 family's advice and go to Children's Medical Center to be with
 2 your grandsons?
 3 A. I waited for my sister to bring me clothes because I
 4 didn't have any clothes on. I only had my housecoat on.
 5 Q. And eventually, Ms. Brooks, did you go to the
 6 hospital and stay there until you made sure Jerrett was okay?
 7 A. Yes.
 8 MR. BEACH: May I approach, Judge?
 9 THE COURT: You may.
 10 Q. (BY MR. BEACH) Ms. Brooks, I'm going to show you
 11 what's been marked for identification as State's Exhibits 1, 2,
 12 3, and 4, and ask are these accurate photographs of your
 13 daughter and your grandchildren as they appeared?
 14 A. Yes.
 15 MR. BEACH: The State would offer State's 1
 16 through 4 into evidence at this time, Your Honor.
 17 (State's Exhibits 1 through 4 offered.)
 18 THE COURT: Haven't they already been admitted?
 19 MR. BEACH: They have.
 20 THE COURT: Okay.
 21 MR. BEACH: I just didn't know if you wanted to
 22 admit them in the presence of the jury.
 23 Q. (BY MR. BEACH) Can you see State's Exhibit Number 1
 24 there, ma'am?
 25 A. Yes.

1 Q. And this is Lovetta; is that correct?
 2 A. Yes.
 3 Q. And then this is JT, and this is little fat faced
 4 Jerrett; is that right?
 5 A. Yes.
 6 Q. About how old do you think was Jerrett there in that
 7 photograph?
 8 A. Oh, about 2 -- about maybe 18 months going on 2.
 9 Q. Is it fair to say Jerrett has a little personality?
 10 A. Yes.
 11 Q. State's Exhibit 2, is that a photograph -- a recent
 12 photograph of your daughter?
 13 A. Yes.
 14 Q. And then State's 3, it's kind of smaller -- just go
 15 ahead and put this -- can you see there on the TV screen to
 16 your left right there?
 17 A. Yes.
 18 Q. Okay. That's going to be Jazzmen, and that's going
 19 to be Jerrett and JT in a more recent photograph; is that
 20 correct?
 21 A. Yes.
 22 Q. And Jazzmen -- at that times she would wear that
 23 kind of ponytail on top of her head like that?
 24 A. Yes.
 25 Q. And then State's Exhibit Number 4, this is Jazzmen's

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1 kindergarten graduation photograph; is that right?
 2 A. Yes.
 3 Q. At the time of her death, she had just started the
 4 first grade there at Mark Twain Elementary?
 5 A. Yes.
 6 Q. Now, I'm going to show you State's Exhibits 5, 6,
 7 and 7, which have already been admitted into evidence, Ms.
 8 Brooks. You've seen these exhibits before; is that correct?
 9 A. Yes.
 10 Q. And 5 and 6 are going to be handwritten notes from
 11 your daughter Lovetta; is that correct?
 12 A. Yes.
 13 Q. And State's Exhibit Number 7 is going to be a five
 14 and a half page letter -- you recognize Gary Green's
 15 handwriting; is that correct?
 16 A. Yes.
 17 Q. Is that -- State's Exhibit 7, is that in Gary
 18 Green's handwriting?
 19 A. Yes.
 20 MR. BEACH: Permission to publish, Judge?
 21 THE COURT: You may.
 22 MR. JOHNSON: Your Honor, if I'm not mistaken, I
 23 believe 7 was admitted yesterday for record purposes only.
 24 MR. BEACH: I'm going to read from 8.
 25 MR. JOHNSON: I just wanted to make sure the

1 record's clear.

2 THE COURT: Yes, okay. I see what you're
3 saying.

4 MR. BEACH: I'd ask the court reporter to
5 segregate State's 7.

6 THE COURT: Let me see the lawyers up here real
7 quick. This is going to take a few minutes; is that right?

8 Ladies and gentlemen, let's take a quick break.
9 This is going to take -- take a little bit, and there's a
10 certain admonishment that I think I'm supposed to give, too,
11 but I want to clear it with the lawyers, so let's take a quick
12 break and -- and we'll reconvene. We always go by that clock.
13 Sometimes it's right, but that's the clock we go by, just so
14 you know. It's 10:46. We'll reconvene by 11 o'clock on
15 that -- on that clock.

16 (Jury excused from courtroom.)

17 (Recess.)

18 (Jury returned to courtroom.)

19 THE BAILIFF: All rise.

20 (Discussion off the record.)

21 THE COURT: Yeah, about that much. The
22 temperature is better in here, isn't it? It's okay? No, it's
23 cold.

24 Yeah, again, you all are in charge of that. If
25 y'all are -- as a consensus too hot or cold, let me know, and

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1 I'll try to do something. I -- that worked. I was amazed that
2 it did. And it worked too well, apparently, so it will heat
3 back up.

4 Still on direct.

5 Ladies and gentlemen, I think what we're about
6 to do is we're going to read to you the contents of the letter.
7 You all will have an opportunity to have the actual words and
8 -- I guess what I'm trying to say, is the attorney is reading
9 it. You are the exclusive judges of what that letter says and
10 how it's said and the wording. And you are to make the
11 determination, not rely on what he says. Instead, you are the
12 finders of fact, and you'll have the letter. You'll be able to
13 read it for yourself. So I just wanted to let that be known,
14 even though I was kind of muddled in my explanation.

15 MR. BEACH: Okay. Top line: From Lovetta,
16 9-21-09, 7:30 a.m. Gary, I know you think that this is all
17 some kind of plot to get revenge on you and because of me you
18 have no back-up plans or as you say no other bridges. As much
19 as I want to believe we can work I know we can't. I know you
20 love me and I love you but it's time we part. I think you are
21 right when you said the timing wasn't right. I want you to get
22 on your feet where you can have your own place and ain't got to
23 depend on no woman. I want a lot of things to change in my
24 life as well. I want to love me more and be a better mamma so
25 I don't have to depend on nobody else for my happiness. Love

1 always, Lovetta.

2 Top line: Call me evil, call me a bitch but
3 this is how I feel.

4 Gary -- and then from Lovetta, 9/21/09, 12:45

5 p.m. Okay I didn't want to put this out there like this
6 because I was trying to keep the peace. I understand where you
7 coming from and you're right because the truth of the matter is
8 I should have let you stayed gone. Not for the reasons you
9 feel but because I already had doubts about us. I thought if
10 we got married it would erase those doubts. It didn't. I'm
11 not trying to hurt you but I have to go do what's best for me
12 just like all those times you played me, you were doing what
13 you felt was best for you. Just like when you went and spent
14 the rent money on a truck that you put in another woman's name,
15 you did what you had to do even though it left me stuck out.
16 So now it's time for me to do what I have to do and that's be
17 by my damn self so I can heal. I love you but you got to go
18 today. I can't get sucked back in. My mind is made up.

19 September 21st, 2009, Lovetta. You made me lose
20 everything, when we had broke up and I moved before you and the
21 kids went up state. You said, if you let me come back home,
22 I'd have to marry you so we did two weeks later. I lost my
23 truck being behind -- behind being with you when someone else,
24 another woman, helped me get it, but I didn't care about that
25 so much because I knew we had each other, but all alone you had

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1 other plans. You see you make all of this bullshit we've been
2 through is on me but you are the reason why I'm homeless. You
3 had made plans to divorce me behind my back, and plus we
4 haven't been married 90 days. Lovetta you telling me to get
5 out you house and we are married at that time for only one
6 month. I was working to get me a truck because you said you
7 was going out of town but you popped on me at the last minute
8 saying we're going out of town for a week with yourself and the
9 kids. So I would have to find me a way to work and back for a
10 week. You see you just leave me without no transportation and
11 let your cousin drive all the way down here from Houston. Her
12 and her son to get in the car with you and your kids which is
13 bullshit, bullshit. When I married you I did no wrong by you
14 for to you act this way by me. LeNell was a woman who really
15 did love me unconditionally and you take that from me because
16 you said you loved me and as my wife you would be a better
17 person and wife. I'm truthfully I really believed you. But no
18 matter how you try to keep the truth covered up you can't
19 because is the light the truth. In the truth about you is you
20 was setting me up from the start. Secrets, yes, I said with
21 your secrets live you was against me all alone. Listening to
22 you mamma who is a woman that doesn't know anything about
23 relationships. She is married and always lived her life as a
24 single woman. She doesn't know if she likes men or women and
25 for that matter can't stay devoted to anybody. In all your so

1 called friends putting me down. In no one of the people you
 2 talk to about me or our relationship is right in their
 3 relationship. They cheat around and the ones who don't have a
 4 man is just women of the world out there back fucking and
 5 sucking and you take what these type of people say to heart.
 6 The pastor said at church a couple of weeks ago that people in
 7 the world are backward, evil life, is the same word, but our is
 8 backward. There are backward people in this world. Lovetta I
 9 be here with you your kids, more than you do one on one. I'm
 10 around you and your family 24-7 and all they do is try to knife
 11 me in the back. Lovetta, I'm not the best man in the world but
 12 I was the best for you and I thought you was the best for me.
 13 When I lost my job I talked it over with you three times the
 14 day before I walked away from the job. I started my paperwork
 15 for my SSI and disability and said that's cool by you three
 16 different times. So after another side of you came out. You
 17 never did enter into our marriage being a devoted wife. You
 18 became worst with you trying to control me, but you don't never
 19 try to control these little monster ass kids of yours once.
 20 When they became sick I be the one who take care of them, not
 21 you, me every time. Lovetta, since I have known you all I have
 22 gave you my last money. You get some money, you play as if you
 23 don't have any money. Lovetta, after we got married, you
 24 called LeNell, texted her to let her know we got married. Why?
 25 To sent in motion the fucking you had planned to put me. How?

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1 You knew you didn't want me so you made it where she LeNell
 2 didn't also. When I married you, I knew the type of money
 3 LeNell would get, but I married you and for what? You left me
 4 homeless because you don't want me and made where no one else
 5 would.
 6 No, I don't have anywhere here to live because
 7 of your backward ass thinking. You never had planned on
 8 getting your last name changed at all because you was and is on
 9 some bullshit. And you have the nerve to say that I'm the
 10 problem in our family. The kids don't think I like them and
 11 all other bullshit. Hell, they are bad, that's the reasons why
 12 you don't fool with them and never have. Here I am today at
 13 your house with your 9-year-old son because the school said he
 14 can't come back until Wednesday. Now keep in mind you come to
 15 pick me up yesterday last night. But when I get here I find
 16 out I had to keep him, which don't get me wrong, I don't have a
 17 problem with it, but I'm just making a point. The point being
 18 you too have made me out to be the bad guy. When something
 19 happens at the schools with these kids, I was the one who went
 20 to the schools when you was home with me when the schools
 21 called at just one time, but all the times.

22 Lovetta, I'm tired of you making me out to be
 23 the bad guys when you and your kids are backward because of
 24 you. You don't have no guidance because your moma didn't give
 25 it to you. Because she like to run the street. When your

1 sister at home now with your mother. Your mother don't be a
 2 devoted mother to her because it's about what she want to do
 3 comes first, run the streets, drinking and parties as you do.
 4 I'm so tired of this bullshit, but I can't take it no more. So
 5 you say fuck me, I say fuck you. So I'm going to end it all.
 6 You are not going to fuck me like that and just walk away. So
 7 you think I wish to die. No, but the fucking you have placed
 8 on me I can't look the other way on this shit Lovetta. All the
 9 shit I had to put up with the last almost three years. No more
 10 Lovetta, no more. You have made my life a living hell on
 11 earth. I'm up to my neck with this shit. Every time my back
 12 is turned you and your kids talking about me when I'm the one
 13 who takes care of them. You yourself is a big baby who thinks
 14 everything is suppose to go your way. Lovetta you killed us
 15 all. It is what it is. Every time I try to talk to you you're
 16 the victim. I am the fucking victim. When I got my truck
 17 after you said you would be gone for a whole week. I was the
 18 bad guy because of that let you tell it. But how many times
 19 you have waited to pay a bill or two to get your hair done and
 20 shit. Numerous times. Over \$300 a pop. But when you did I --
 21 when you -- I did at to get me some transportation because you
 22 was going to leave me here with any way to or from work.
 23 That's why I got the truck. You wanted me to pay the bills
 24 which I did, and work which I did, but the price is showing me
 25 no respect as a man or as a person. You asked to see the

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1 monster, so here he is, the monster you made me. Bitch. There
 2 will be 5 lives taken today, me being the 5th. You wished to
 3 believe you can continue to play these games with me. There
 4 was a woman who was going to give me \$3500 cash just to give
 5 her some, which she knew I had a woman at home. I told you
 6 about it and Ruth. You said you don't need no woman to give
 7 you nothing but you wouldn't help me or give me nothing. I
 8 told you I would use the money to make a better life for all of
 9 us. Ruth said in so many ways I was crazy. She would have got
 10 that money. She would have got that me anyway. You was
 11 getting when we first got together thousands of dollars every
 12 90 days from the colleges, a refund check. Lovetta you
 13 wouldn't do anything positive with money. You played me and
 14 now the game is up. I pray that the Lord allows my soul to
 15 enter heaven. If not, I will burn in hell forever. You knew I
 16 was behind on my child support years before we became married,
 17 but you were so much in a rush to marry me. But as soon as you
 18 did you talking to all these bitches about me and our
 19 relationship, you allowed the devil in to destroy us. But your
 20 kids to fuck everyday and some type of way and you look the
 21 other way as if it didn't happen. All your so called and
 22 family all they do is fuck over and you always look the other
 23 way. But the one people in your life that really try to look
 24 out for us was all me and look out -- look how you fucked me.
 25 I paid my money to get all of you plus some life insurance.

1 What man in your life ever did that for you and yours. No.
 2 Because we were a family so I got us insurance. And you turn
 3 around and say this or that. You know, Lovetta, you never tell
 4 the truth, just like when you were trying to go out when you
 5 knew I was going so you wanted to leave the kids here at home
 6 by their selves, but I wouldn't let you and I had to go through
 7 all this bullshit with Ruth over that shit. She's saying she
 8 wanted to shoot me over me trying to stop you from leaving them
 9 here alone which they were the kids at the time was 5, 8, and
 10 10 years old. So you see people calling me crazy, all they had
 11 to put up with behind you and your family. Your own family
 12 didn't want to kept your kids because you never had time to
 13 teach them anything because you as a mother was all about
 14 yourself. Herself. I'm here today, you telling me I have to
 15 get out today when you come home as if I had made your life a
 16 living hell which, in fact, it was you and yours who made me
 17 the victim. I never tried to hurt you, but only help you and
 18 yours. When I first started working, I should have walked away
 19 then when I had the chance to, but I didn't because I didn't
 20 want to do that. When I got a job, walk away from you, but
 21 stay due to two working can make it together but all alone you
 22 were working in secret against me. And then you just flipped
 23 the script on me without giving me no time to find me home to
 24 live, just get out without nothing. I worked hard on this
 25 relationship to be fucked over from the bullshit you created

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1 behind my back. God, please have mercy on my soul. I'm at my
 2 breaking point which is my finally breaking point. PS. Why
 3 the kids because they were a big part of the secret plot
 4 against by always talking behind my back that Gary is this or
 5 that. When mamma, you, never had time for them and must go
 6 too.
 7 THE COURT: Members of the jury, like I said, at
 8 the close of evidence when you begin your deliberations, if any
 9 piece of evidence that has been admitted, you will -- we have
 10 those and you can request that and that can be sent back to the
 11 jury room for you. So don't feel like you have to memorize it
 12 or anything like that. All of the evidence will be available
 13 to you when you begin your deliberations.
 14 Please continue.
 15 Q. (BY MR. BEACH) Ms. Brooks, it's a fact that Lovetta
 16 loved the Defendant; is that correct?
 17 A. Yes.
 18 Q. And she thought by marrying him maybe she could
 19 change him?
 20 A. Yes.
 21 Q. And I'm not going to get into all the he said or she
 22 said, but did your daughter love her children, as well?
 23 A. Yes.
 24 Q. She took her boys to the church that night; is that
 25 correct?

1 A. Yes.
 2 MR. BEACH: I will pass the witness, Your Honor.
 3 THE COURT: Cross?
 4 MR. JOHNSON: Your Honor, I have no questions
 5 for her at this time.
 6 Thank you, ma'am.
 7 THE COURT: Thank you, ma'am. You may retake
 8 your seat.
 9 Please call your next witness.
 10 MR. HARRIS: Call Latasha Bradfield.
 11 (Witness brought forward and sworn.)
 12 THE COURT: Please have a seat.
 13 LATASHA BRADFELD,
 14 was called as a witness by the State, and after having been
 15 first duly sworn, testified as follows:
 16 DIRECT EXAMINATION
 17 BY MR. HARRIS:
 18 Q. Ma'am, go ahead and state your name for the record.
 19 A. Latasha Bradfield.
 20 Q. Okay. Latasha, I know you're a little nervous,
 21 okay? Right?
 22 A. Yes, sir.
 23 Q. Okay. So look -- that microphone actually moves so
 24 you can actually pull it a little closer to you. You can pull
 25 it closer. It's not going to break.

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1 A. It's going to fall.
 2 THE COURT: It's going to fall off. You can
 3 pull your chair up. You can move the microphone up and down.
 4 Q. (BY MR. HARRIS) Pull your chair up. Yeah, scoot
 5 the chair up, because you have a very soft voice. Scoot your
 6 chair up and relax.
 7 Okay. All right. Go ahead and state your name
 8 again.
 9 A. Latasha Bradfield.
 10 Q. All right. And you know why you're here today,
 11 right?
 12 A. Yes, sir.
 13 Q. Okay. So we'll get right to the point. Did you
 14 know a person by the name of Lovetta Armstead?
 15 A. Yes, sir.
 16 Q. Do you know a person by the name of Gary Green?
 17 A. Yes, sir.
 18 Q. And do you see Mr. Green in this courtroom?
 19 A. Yes, sir.
 20 Q. Will you please point him out and describe an
 21 article of clothing he's wearing?
 22 A. He's sitting over there with the dark suit and the
 23 glasses.
 24 Q. Okay. And can you tell the members of the jury how
 25 you knew Lovetta and Gary?

1 A. They were my neighbors.
2 Q. Okay. And where exactly did you reside back in --
3 A. At --
4 Q. Hold on. Let me finish.
5 A. Okay.
6 Q. Where did you reside in September of 2009?
7 A. At 3848 Morning Springs Trail.
8 Q. And they lived next door to you?
9 A. Yes, they did.
10 Q. At 3844?
11 A. Yes, sir.
12 Q. Now, are both those addresses here in Dallas County?
13 A. Yes, sir.
14 Q. State of Texas?
15 A. Yes, sir.
16 Q. Okay. How long had you been living there, I guess,
17 when Lovetta moved there?
18 A. Maybe about 10 days, 10 or 20 days.
19 Q. How long were y'all neighbors?
20 A. Since 2007. I moved there September 2007. She came
21 October 2007.
22 Q. Did Lovetta have kids?
23 A. Yes, she did.
24 Q. How many kids did she have?
25 A. Three.

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1 Q. And do you know their names?
2 A. Yes, I do.
3 Q. Can you tell the members of the jury?
4 A. She had two sons -- she has two sons, Jerrett and
5 Jerome, and a daughter, Jazzmen.
6 Q. And as far as those kids, they sometime come over
7 your house?
8 A. Yes.
9 Q. And you sometime babysit them?
10 A. Yes.
11 Q. Let me show you -- let's do this. Can you tell
12 me -- I think you indicated that you had babysitted the kids on
13 occasion; is that right?
14 A. Yes.
15 Q. Okay. And you were neighbors with Lovetta for about
16 two years?
17 A. Yes.
18 Q. How did you know Gary Green?
19 A. From him being my neighbor.
20 Q. Okay. And how long did he live there?
21 A. Same amount of time, from October 2007.
22 Q. At some point were you aware of the fact that they
23 had gotten married?
24 A. Yes.
25 Q. Okay. And I guess at some point during September of

1 '09, were you aware of the fact that -- I guess Lovetta was
2 trying to get an annulment?
3 A. Yes.
4 Q. Okay. And I want to just go ahead and if you can,
5 just go ahead and direct your attention to September the 21st
6 of 2009.
7 A. Yes, sir.
8 Q. Do you remember what you were doing on that day?
9 A. Yes, sir.
10 Q. And is that a day you will ever forget?
11 A. No.
12 Q. Okay. Can you tell the members of the jury, did you
13 come in contact with Jerrett and JT -- you call Jerome JT; is
14 that correct?
15 A. Yes, sir.
16 Q. Okay. And did you come in contact with them that
17 day?
18 A. Yes, sir.
19 Q. Prior to you coming in contact with them, I guess
20 that night, can you tell the members of the jury I guess what
21 were you doing later that evening on that day?
22 A. That evening?
23 Q. Uh-huh.
24 A. I was about to do laundry when they came.
25 Q. Okay. At some point on that day did you have to

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1 pick your daughter up?
2 A. Yes. I picked her up from therapy, and we came home
3 like about 8:30.
4 Q. Okay. And can you tell the members of the jury when
5 you came home what happened?
6 A. When I pulled into the driveway, I noticed that
7 my -- my neighbor, Gary Green, was outside with their car and
8 the trunk was open and the garage was open. And I said to the
9 people that were in the car with me, I said, oh, he has the
10 right thing in mind, I'm going to pull my car in the garage, as
11 well, because it's about to rain --
12 Q. Okay.
13 A. -- so I pulled in and went in.
14 Q. All right. Now, once you go inside the house, what
15 do you do next?
16 A. I watch a program on TV, lasted about 40 minutes.
17 Q. Okay. And then what happens?
18 A. I'm downstairs. There's a lot of knocking at the
19 door, so I opened the door and the kids are screaming --
20 Jerrett and JT, they're screaming different things.
21 Q. Okay. What are they saying?
22 A. I can say what they said?
23 Q. Absolutely. What are they saying?
24 A. They said that, Gary killed my mom and my sister.
25 Q. Okay. Now, are they as calm as you are today --

1 A. No.

2 Q. -- in this courtroom?

3 A. No.

4 Q. I mean, how -- tell the members of the jury -- I

5 mean, how were they acting?

6 A. They were screaming, and Jerrett was holding his

7 stomach saying that he stabbed him, too.

8 Q. Okay. And -- and when you saw his stomach, did you

9 see any evidence of the fact that he had been stabbed?

10 A. His shirt was bloody.

11 Q. Okay. And, again, you're pretty calm here today.

12 Were they -- you said they were yelling. Were they crying?

13 A. Yes, they were.

14 Q. Okay. At that point did you know what to believe?

15 A. I didn't really know what they were saying and if

16 there was truth behind it.

17 Q. Okay. At some point you're trying to calm them

18 down?

19 A. Yes, sir.

20 Q. Now, when they come to your door beating on your

21 door and you get out and they're saying -- what are they

22 saying?

23 A. Gary killed my mom and my sister.

24 Q. Okay. At that point did they tell you how he had

25 killed them?

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1 A. No.

2 Q. Okay. But they're at your door yelling, Gary killed

3 my mamma and my sister?

4 A. Please help. He killed my mamma and my sister.

5 Gary killed my mom and my sister.

6 Q. Okay. And at some point while they're at your door,

7 are they on the phone with the 911 operator?

8 A. Jerrett is on the phone. He's holding his stomach

9 with one hand, and he's holding the phone with the other hand.

10 Q. When we say Jerrett, again, we're referring to the

11 youngest?

12 A. The youngest.

13 Q. Yeah, one is 12, and one is 9 --

14 A. Yes.

15 Q. -- at that time?

16 A. Yes.

17 Q. And do you take the phone from Jerrett?

18 A. Yes, I do.

19 Q. And what do you do?

20 A. I start speaking with the operator, telling them --

21 telling the operator the things that they are saying to me.

22 Q. Okay. And what is that?

23 A. I tell them -- the operator that they said that

24 their stepdad killed their mom and their sister and tried to

25 kill them.

1 Q. Okay. And, again, it's really calm in this

2 courtroom and -- but it was crazy out there that night?

3 A. Yes, it was.

4 Q. Okay. But you're trying to do the best you can to

5 explain to her what they're trying to explain to you?

6 A. Yes, sir.

7 Q. And at some point do you walk away from them?

8 A. Well, the operator says she can't hear me, so I have

9 to leave from my living room and try to come to my foyer. She

10 said she still can't hear me because they're still screaming

11 and so I let her know that I'm going to go and see what they're

12 talking about.

13 Q. Okay. And do you -- and then what do you do? Tell

14 the members of the jury what you do.

15 A. I'm still on the phone with the operator, and I

16 leave from my home which is right next door to theirs. And I

17 walk through the grass and go to their front door and I knock

18 on the door. No one answers the door --

19 Q. Okay. Now --

20 A. -- so I walk in.

21 Q. Okay. Now, let me stop you, Latasha, because you're

22 going a little fast.

23 A. I'm sorry.

24 Q. She's recording everything that you're saying, okay?

25 So at this point you leave your house because the boys are

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1 yelling and it's so noisy that the 911 operator can't even hear

2 you?

3 A. Yes.

4 Q. And you go to their house?

5 A. Yes.

6 Q. Now, at this point do you know where Gary Green is?

7 A. No.

8 Q. Have you asked the boys?

9 A. They said he left.

10 Q. Okay. Is that why you went ahead and went over to

11 the house?

12 A. Honestly, I don't know.

13 Q. Okay.

14 A. I don't know.

15 Q. All right. But anyway, you're at the door and

16 you're knocking on the door, no answer. Then what happens?

17 A. I just heard a TV blaring, and so I walk in and

18 their garage door is right by the front door so I walk in, and

19 I look out the garage door and I see that the car is gone. And

20 so I walk back toward the bedroom area. I walk past the living

21 area, walked to the bedroom area. And that's when I see

22 Lovetta.

23 Q. Okay. Now, you're standing at the bedroom door?

24 A. Yes, sir.

25 Q. And you're looking into the bedroom?

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1 A. Yes, sir.

2 Q. And when you see Lovetta, are you on the phone with

3 the 911 operator?

4 A. Yes, I am.

5 Q. And are you trying to explain to her I guess what

6 you see and what's going on?

7 A. Yes, sir.

8 Q. Okay. When you see Lovetta, are you startled?

9 A. Yes, sir.

10 Q. Okay. Let me just real quickly --

11 MR. BEACH: Your Honor.

12 Q. (BY MR. HARRIS) I'm going to show you what's marked

13 as State's Exhibit Number 9.

14 MR. HARRIS: And permission to publish?

15 THE COURT: Yes.

16 Q. (BY MR. HARRIS) Okay. Now, that's a diagram of the

17 house at 34 -- 3844. If you -- can you show the members of the

18 jury I guess exactly the -- what you did when you enter the

19 house?

20 THE COURT: Ma'am, there's a pen or a stylus

21 right -- right there. If you need to touch the screen, go --

22 go ahead, but you can use your finger just to demonstrate what

23 Heath is asking you.

24 A. I came in through this way.

25 Q. (BY MR. HARRIS) Uh-huh.

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1 A. And that's when I stopped, knocked on the door, and

2 then coming through the door because this part right here is

3 the door -- the actual door. You come in and then there's the

4 garage door here. And this is where I looked in the garage and

5 saw that the car was gone. And then I walked real slowly down

6 this way.

7 Q. Okay. Now, when you say the car, what type of car

8 did she drive?

9 A. A red PT Cruiser.

10 Q. Okay. And where -- just show me on there exactly --

11 let me get you to stop for a second and just show me on there

12 exactly where you would have been standing when you see the

13 vehicle.

14 A. Right here.

15 Q. Okay. And approximately where is Lovetta?

16 A. Wait a minute.

17 Q. If you're looking into that bedroom.

18 A. It's right here. This is blocked off. It's right

19 here. This is the walkway into the bedroom.

20 Q. Okay. And where -- you're looking into the bedroom,

21 and where is she?

22 A. She's right here.

23 Q. Okay. Okay. Now --

24 MR. HARRIS: You can go ahead and turn the

25 lights back on, Judge.

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1 Q. (BY MR. HARRIS) At some point -- at that point

2 you're on the phone with 911?

3 A. Yes, sir.

4 Q. And you're doing the best you can to -- I guess to

5 keep your composure and tell them what's going on?

6 A. Yes, sir.

7 Q. Do you stay in the house?

8 A. Only for a brief minute.

9 Q. Okay. Now, as far as the 911 tape, you've heard

10 that tape, correct?

11 A. Yes, sir.

12 Q. And we actually transcribed the words from that

13 tape; is that correct?

14 A. Yes, sir.

15 Q. And you've seen that tape, correct?

16 A. Yes, sir.

17 Q. And I'm going to let you hear, with the Court's

18 permission, the 911 tape, and it's going to be State's Exhibit

19 Number 121. I just want you to listen to this.

20 With the Court's permission, I'm going to hand

21 out these transcripts to the members of the jury.

22 Judge, can you turn the screen on?

23 (Exhibit played.)

24 Q. (BY MR. HARRIS) Latasha, now, on that 911 tape, the

25 voices that we hear -- we obviously hear your voice on there

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1 and you hear the 911 operator, correct?

2 A. Yes, sir.

3 Q. And then there's JT, being Jerome?

4 A. Yes, sir.

5 Q. The oldest?

6 A. Yes, sir.

7 Q. And we also hear Jerrett?

8 A. Yes, sir.

9 Q. Okay. I'm going to ask you to look at these two

10 young men and tell us which one is JT.

11 A. The one in the blue shirt.

12 Q. Okay. Which one is Jerrett?

13 A. The one in the brown shirt.

14 Q. And the voices, all the hollering and screaming that

15 we hear on this 911 tape, are these two guys; is that correct?

16 A. Yes, sir.

17 Q. Okay. And at some point --

18 (Boys leave courtroom.)

19 Q. (BY MR. HARRIS) You told the members of the jury

20 that you were actually at her bedroom door?

21 A. Yes, sir.

22 Q. And you could look off in that bedroom door?

23 A. Yes, sir.

24 Q. And you see Lovetta?

25 A. Yes, sir.

1 Q. And I'm going to show you what's marked as State's
 2 Exhibit Number 40. Is this what you see?
 3 A. Yes, sir.
 4 Q. Okay.
 5 MR. HARRIS: Permission to publish, Judge?
 6 THE COURT: We're going to take a break.
 7 Ladies and gentlemen, we're going to break for
 8 lunch. It's 11:45. Let's come back at 1 o'clock, okay? All
 9 right.
 10 THE BAILIFF: All rise.
 11 (Jury excused from courtroom.)
 12 THE COURT: Thanks. All right. The Court is in
 13 recess until 1:00.
 14 (Recess.)
 15 THE BAILIFF: All rise.
 16 (Jury returned to courtroom.)
 17 THE COURT: Thank y'all. Please be seated.
 18 Ladies and gentlemen of the jury, I apologize.
 19 It's totally on me. I promised Elda I'd get her a Rangers
 20 shirt. Who would ever thought you'd have trouble finding a
 21 Rangers shirt. I went to five different places, and they
 22 didn't have them, but I finally -- I finally got her a cloth
 23 shirt that she wanted, so --
 24 JUROR: You should have got one for us.
 25 THE COURT: Probably should have.

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1 All right. Please continue.
 2 Q. (BY MR. HARRIS) Okay. Latasha, you're the same
 3 Latasha Bradfield that was testifying earlier, correct?
 4 A. Yes, sir.
 5 Q. I think earlier we were listening to the 911 tape
 6 that included JT. Go ahead and point out JT -- the taller --
 7 taller kid who walked in earlier, right? And then Jerrett?
 8 And that's little Jazzmen, right?
 9 A. Yes, sir.
 10 Q. Okay. And that's pretty much how they appeared back
 11 in September of 2009?
 12 A. Yes, sir.
 13 Q. And then State's Exhibit Number 2 that I'm showing
 14 you here is a photo of Lovetta; is that correct?
 15 A. Yes, sir.
 16 Q. Okay. Now, earlier I had just shown you a photo, I
 17 guess, of one of the crime scene photos being State's Exhibit
 18 Number 40, and I think you had just told the members of the
 19 jury you're on the 911 -- when we cut off the 911 tape, you're
 20 on the phone with the operator -- with the 911 operator and
 21 you're standing in the door and this is basically what you see,
 22 correct?
 23 A. Yes, sir.
 24 MR. HARRIS: Permission to publish, Your Honor?
 25 THE COURT: You may.

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1 (Exhibit published.)
 2 Q. (BY MR. HARRIS) Now, as far as going into the
 3 bedroom, did you ever go into the bedroom?
 4 A. No, sir.
 5 Q. All right. Did you make sure you didn't touch
 6 anything?
 7 A. Yes, sir.
 8 Q. From where you were standing, could you tell whether
 9 she was breathing?
 10 A. I could tell she wasn't breathing.
 11 Q. And, in fact, once you're observing her -- well,
 12 let's just play the tape.
 13 (Exhibit played.)
 14 Q. (BY MR. HARRIS) Now, are you yelling to her?
 15 A. Yes, sir.
 16 Q. And there's no response?
 17 A. No, sir.
 18 Q. Okay. Now, at that point have you seen Jazzmen?
 19 A. No, sir.
 20 Q. Okay. So you don't go into that bedroom, right?
 21 A. No, sir.
 22 Q. And there's actually a bath -- you know there's a
 23 bathroom in that master bedroom?
 24 A. Yes, sir.
 25 Q. And you're telling the members of the jury you never

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1 go in there and see where Jazzmen is?
 2 A. No, sir.
 3 Q. Okay. After you get off the phone with the 911
 4 operator, do you eventually hear the sirens?
 5 A. Yes, sir.
 6 Q. And do the paramedics finally arrive?
 7 A. Yes, sir.
 8 Q. And when they arrive, are the boys still at your
 9 house?
 10 A. Yes, sir.
 11 Q. Okay. And once the paramedics arrive, what do they
 12 do?
 13 A. They walk inside Lovetta's home, and they come back
 14 out.
 15 Q. Okay.
 16 A. They just walk in and come back out.
 17 Q. Okay. At some point do they start treating the
 18 boys?
 19 A. Yes.
 20 Q. And --
 21 A. But I was asking them --
 22 Q. Okay.
 23 A. -- what was going on, why they weren't over there
 24 helping her.
 25 Q. Okay. Well, let's -- let's just focus on -- what I

1 want to know is at some point the paramedics start working with
2 the boys; is that correct?
3 A. Yes, sir.
4 Q. They actually take them to the ambulance. Do you
5 remember?
6 A. Say that again.
7 Q. Do they take them to the ambulance? Or they work on
8 them right there at your house? Just if you remember. That's
9 fine.
10 A. I think they led them to the truck from my house.
11 Q. Okay. At some point does some of Lovetta's family
12 members arrive?
13 A. Yes, sir.
14 Q. And can you tell the members of the jury what
15 happens when the family members arrive?
16 A. Her brother comes first, and he's hysterical.
17 Q. Okay. At this point is Lovetta and Jazzmen still in
18 the home?
19 A. Yes, they are.
20 Q. Okay. The brother is hysterical. At some point
21 does the mother arrive?
22 A. Yes, she does.
23 Q. And can you tell the jury what happens when -- when
24 the mother arrives?
25 A. She's -- she parked like by my home, which is on the

1 left side of that house, so she was coming up and she lost her
2 footing -- I mean, she -- she fell down.
3 Q. Okay. Then what happens?
4 A. The officers start to comfort her.
5 Q. Okay. And at some point did you -- I guess, when
6 the police arrive, did you at some point give them a statement
7 and tell them, I guess, pretty much the same thing you told the
8 members of this jury?
9 A. Yes, sir.
10 Q. Okay.
11 MR. HARRIS: Judge, I'll pass the witness.
12 CROSS-EXAMINATION
13 BY MR. JOHNSON:
14 Q. Ms. Bradfield, my name is Paul Johnson. I have just
15 a couple of questions for you.
16 You said that you had moved into that location
17 over there on -- in September of '07; is that correct?
18 A. Yes, sir.
19 Q. And you said that soon thereafter in October of '07
20 that Lovetta and Gary had moved in; is that right?
21 A. Yes, sir.
22 Q. And so they had lived there for a couple -- two or
23 three years before this incident occurred, correct?
24 A. Yes, sir.
25 Q. Okay.

1 MR. JOHNSON: I believe that's all I have for
2 you right now, ma'am. Thank you very much.
3 THE WITNESS: You're welcome.
4 THE COURT: Anything further?
5 Ma'am, you may retake your seat.
6 MR. HARRIS: Judge, can this witness be excused?
7 THE COURT: She may be. It's her choice if she
8 wishes to remain in the courtroom or -- or be excused.
9 MR. JOHNSON: Judge, I'm going to need her for
10 recall at a later time.
11 THE COURT: You are going to need her? Okay.
12 MR. JOHNSON: Yes.
13 THE COURT: Ma'am, just make sure that we've got
14 a way to get in touch with you in the event we need for you to
15 come back, okay?
16 THE WITNESS: Yes, sir.
17 MR. BEACH: Officer Jones. This witness has
18 been sworn in, Judge.
19 THE COURT: Sir, if you would.
20 MR. BEACH: He already has. Oh, I'm sorry.
21 THE COURT: I -- I do it for every single
22 witness.
23 (Witness sworn.)
24 THE COURT: Please have a seat.
25 THE WITNESS: Thank you.

1 JAMES JONES,
2 was called as a witness by the State, and after having been
3 first duly sworn, testified as follows:
4 DIRECT EXAMINATION
5 BY MR. BEACH:
6 Q. State your name, please.
7 A. James Jones.
8 Q. And how long have you been a Dallas Police officer?
9 A. For approximately five and a half years.
10 Q. And back in September of last year, to what division
11 were you assigned, sir?
12 A. South Central Division.
13 Q. And what part of the City of Dallas does the South
14 Central Division patrol?
15 A. It's basically between I-35 and I-45.
16 Q. Now, Officer, I'm going to make -- want you to make
17 believe that somebody is in your face out there off of Polk,
18 and I want you to keep your voice up just a little bit.
19 A. Okay.
20 Q. I know you can.
21 A. I can.
22 Q. I need to make sure we hear what you have to say.
23 Directing your attention back to September 21st of last year,
24 about 9:20 p.m. that night, were you dispatched to a location
25 of 3844 Morning Springs Trail?

1 A. Yes, sir, I was.
 2 Q. And is that a residence?
 3 A. It is.
 4 Q. And is that a residential neighborhood?
 5 A. It is.
 6 Q. And is 3844 Morning Springs Trail, is that in the
 7 City of Dallas?
 8 A. Yes, sir.
 9 Q. And is that Dallas County?
 10 A. It is.
 11 Q. Is that Dallas County, Texas?
 12 A. It is.
 13 Q. What kind of call were you dispatched on, sir?
 14 A. We were dispatched to a cutting, slash, stabbing.
 15 Q. Now, I take it when you're dispatched to a call like
 16 that, that your senses are heightened and you're alert to
 17 what's going on at the scene?
 18 A. Very much so.
 19 Q. Were you by yourself that night?
 20 A. Yes, sir, I was.
 21 Q. When you get out to the location of 3844 Morning
 22 Springs Trail, who was out at the location at that time?
 23 A. The Fire Department. I believe there was an
 24 ambulance and a fire truck.
 25 Q. So DFD is already out there; is that correct?

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1 A. Yes.
 2 Q. And are they inside the house or outside when you
 3 get there?
 4 A. They were standing outside of the front door.
 5 Q. And do you have a brief conversation with them?
 6 A. I did.
 7 Q. By that time, have any other Dallas police officers
 8 arrived?
 9 A. Yes, one other.
 10 Q. Who was that?
 11 A. Officer Adler.
 12 Q. And just walk us through, Officer, once you had the
 13 brief conversation with DFD, where do you go at that time?
 14 A. Once I approached them at the front door, I entered
 15 the house. They told me that there were two victims inside.
 16 Myself and Officer Adler entered the front door, immediately
 17 passed the kitchen where we noticed a trash can was knocked
 18 over. The living room, the TV was still on. We proceeded to
 19 the back bedroom -- the master bedroom. Officer Adler checked
 20 the hall bathroom and another room. I went in the master
 21 bedroom and found the complainant lying in front of the
 22 bathroom door and also a young child in the bathroom.
 23 Q. The adult female victim was on the bedroom floor; is
 24 that correct?
 25 A. Yes, sir.

1 Q. And the little girl was face down in the bathroom?
 2 A. Yes, she was.
 3 Q. Now, when you're going in like that, are you kind of
 4 lollygagging inside or what -- do you have your gun drawn or
 5 what are you doing in a situation like that?
 6 A. Yes, sir. The two of us, myself and Officer Adler,
 7 we both had our guns drawn not knowing if a suspect was still
 8 there or what exactly the situation was inside the house. So
 9 the two of us had our guns drawn. We searched the house pretty
 10 much together, within the eyesight of one another, in case
 11 there was a suspect there or in case something did happen.
 12 Q. In terms of attempting CPR or doing anything in
 13 relation to the bodies, tell us what you did in that regard.
 14 A. After entering the house, DFD -- the Fire Department
 15 told us that both victims were deceased. And upon seeing the
 16 adult female lying on the floor and the extent of her injuries,
 17 I did not attempt CPR. And seeing the child in the bathroom, I
 18 did not attempt CPR based on the Fire Department's comments and
 19 the scene at hand.
 20 Q. Now, just briefly, if you can, describe that
 21 bathroom, what you saw when you looked in that bathroom.
 22 A. The bathroom was covered in blood. The floor was
 23 covered in blood from the back wall to the door of the
 24 bathroom. There was blood on the walls. There was blood on
 25 the sink, on the toilet. The lid to the back of the toilet was

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1 broken on the floor and covered in blood, also.
 2 Q. Once you make these observations, what do you and
 3 Adler do at that point in time?
 4 A. Once we see that, we made sure the house was empty,
 5 no -- no other victims or a suspect, no persons in the house.
 6 We exited the house, had other patrol officers stand at the
 7 front door to make sure no one else went in the house. And
 8 Adler and I proceeded to check all the doors and windows on the
 9 outside of the house to see if there was forced entry. We
 10 checked the backyard to make sure there was nobody else there.
 11 Q. Did you and/or Adler find any signs of forced entry
 12 around that house?
 13 A. No, no signs of forced entry whatsoever.
 14 Q. And the suspect was gone?
 15 A. Yes, sir.
 16 Q. Show you what's been admitted into evidence already
 17 as State's Exhibit Number 9, Officer Jones, and if you could
 18 just kind of just walk us through. There's a pointer there
 19 just in front of that Kleenex box. You see it there. Just
 20 kind of trace your steps once you go inside the front door
 21 after having your conversation with the Fire Department.
 22 A. Okay. I had the first conversation with the Fire
 23 Department here. I proceeded inside the house. I could see
 24 the TV on over here. I proceeded straight down. Officer Adler
 25 checked the living room area and also the kitchen. And at

1 about this point near the bathroom, we both paused, looked in
2 the bathroom. There's no one in the bathroom. I stood here,
3 as Officer Adler checked this bedroom and this bedroom. I
4 proceeded in the master bedroom and saw the first victim here.
5 I went to the corner to check for anyone in the closet or the
6 corner of the room on the side of the bed. And then I went
7 back towards the restroom where I saw the second victim,
8 stopped maybe a foot or so inside the door. And there's no one
9 in the restroom. After that, I just proceeded back out the
10 same way I came in.

11 Q. We're going to see some photographs now and just to
12 -- hopefully to highlight what you've just told us -- showing
13 you State's Exhibit Number 10. First of all, is that a
14 photograph taken showing the outside of 3844 Morning Springs
15 Trail as you saw it that night?

16 A. Yes, sir, it is.

17 Q. And it's a three bedroom, two bath brick house; is
18 that correct?

19 A. Yes.

20 Q. Okay. State's Exhibit Number 11, tell us what that
21 photograph is.

22 A. That's a photograph of the walkway between the
23 living room and the kitchen, immediately inside of the front
24 door.

25 Q. Okay. Kitchen is on your left, living room is on

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1 your right, is that correct?

2 A. That's correct.

3 Q. State's Exhibit Number 12, what does that depict?

4 A. That is the kitchen trash can that was knocked over
5 on the floor inside of the kitchen.

6 Q. Okay. State's Exhibit Number 13, is that a scene of
7 the living room with the TV on, as you told us?

8 A. Yes, it is.

9 Q. And then State's Exhibit Number 14, what does that
10 depict?

11 A. That is the master bedroom.

12 Q. Okay. And is the TV on also there in the master
13 bedroom as -- as depicted in that photograph?

14 A. Yes, it is.

15 Q. Can you just kind of point to the closet you would
16 of gone to to see if there were any victims or suspects?

17 A. It was around this direction.

18 Q. Okay.

19 A. I'm not sure if it was here. I believe so.

20 Q. Very good. State's Exhibit Number 15, you see the
21 left arm extended of the adult female victim, as you would have
22 come in through the bedroom -- bedroom door?

23 A. Yes, sir.

24 Q. And is that how she appeared when you first saw her
25 that night?

1 A. Yes, sir.

2 Q. And there appears to be -- we'll talk about this
3 later, but there appears to be some kind of letter or
4 handwritten note on the bed; is that correct?

5 A. That is correct.

6 Q. Next. That's State's Exhibit 16. You can see the
7 right leg of the adult female down there in the bottom corner
8 of the photograph; is that correct?

9 A. Yes, sir.

10 Q. And you see the little girl tied up and bound laying
11 face down in the bathroom; is that correct?

12 A. Yes, sir.

13 Q. Do you see some of the gore that you've told us
14 about already, that you saw in the bathroom that night?

15 A. Yes, sir.

16 Q. State's Exhibit 17. Again, this is the kitchen,
17 with the cabinets underneath the sink; is that correct?

18 A. Yes, that's correct.

19 Q. Blood running down them?

20 A. Yes.

21 Q. And State's Exhibit Number 18. Again, can you point
22 to some of the pieces of the broken commode lid back there in
23 the upper right that you talked about?

24 A. Yes, sir. There's one -- there's also a piece here.

25 Q. Thank you. After the crime scene is secure in terms

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1 of you and Adler and the other patrol officers making sure no
2 other suspects, no other victims, how do we get crime scene and
3 then homicide -- how do those folks end up getting dispatched
4 out there?

5 A. I notified crime scene and the on-call homicide
6 detective once we exited the house and secured the backyard.

7 Q. You been doing this five and a half years; is that
8 right?

9 A. At least.

10 Q. Had you been in -- had you ever been to anything
11 like you saw that night in your five and a half years with the
12 Dallas Police Department?

13 A. I've been to several homicides, several
14 murder-suicides, but nothing as brutal or explicit as this, no.

15 Q. Now, once you make the phone calls, what is yours
16 and the other patrol officers' job in regards to the perimeter
17 of 3844 Morning Springs Trail?

18 A. Our responsibility then becomes to preserve the
19 crime scene. We cordoned off the area around the house,
20 approximately one house on either side of the house, and make
21 sure that no one entered the house other than detectives or the
22 crime scene investigators.

23 Q. And how do you -- how do you specifically cordon off
24 an area like that?

25 A. With yellow police crime scene tape.

1 Q. And other than authorized personnel, nobody gets
2 into that location until orders otherwise; is that correct?
3 A. Correct.
4 Q. I appreciate you coming down.
5 A. Absolutely.
6 MR. JOHNSON: I have no questions.
7 THE COURT: Thank you very much. May this
8 officer be excused?
9 MR. BEACH: No objections.
10 THE COURT: Sir, you are free to go. Thank you.
11 THE WITNESS: Thank you.
12 MR. BEACH: The State will call Dr. Martinez out
13 of order for a scheduling problem, Judge.
14 THE COURT: Okay. Doctor, if you would.
15 (Witness brought forward and sworn.)
16 THE COURT: Please have a seat.
17 DR. JOSEPH MARTINEZ,
18 was called as a witness by the State, and after having been
19 first duly sworn, testified as follows:
20 DIRECT EXAMINATION
21 BY MR. BEACH:
22 Q. Doctor, good afternoon. Can you tell us what your
23 name is, please?
24 A. Joseph N. Martinez.
25 Q. And how are you employed?

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1 A. I'm an emergency medicine faculty at UT
2 Southwestern, and we provide the medical faculty coverage for
3 Parkland Memorial Hospital.
4 Q. And back in the early morning hours of
5 September 22nd of 2009, were you on duty in the emergency room
6 of Parkland Hospital at that time?
7 A. Yes, I was.
8 Q. And just tell us briefly what are your day-to-day,
9 night-to-night responsibilities there in the ER when you're --
10 when you're assigned?
11 A. Well, basically emergency medicine, is we provide
12 care for anyone who presents in the emergency room, whether
13 it's from the simplest thing to the most complicated,
14 life-threatening or nonlife-threatening.
15 Q. And are you supervising interns at that --
16 A. I am a teaching faculty, so that means I teach
17 physicians, student physicians -- well, not really student
18 physicians, but physicians who just graduated from medical
19 school and they're learning their skill in emergency medicine.
20 And that's interns, residents, yes.
21 Q. And when a patient comes in the ER there at
22 Parkland, are medical records generated concerning that
23 patient's stay there at the hospital?
24 A. Yes, sir.
25 Q. Showing you what -- Doctor, what's already been

91
1 admitted into evidence as State's Exhibit Number 85. Just
2 briefly just kind of peruse these records, and can you tell us,
3 do those appear to be the medical records pertaining to
4 Parkland's care and treatment of Gary Green back on
5 September 22nd of 2009?
6 A. Yes, they are.
7 Q. Thank you, sir. The records reflect that the
8 Defendant, Gary Green, was admitted approximately 2:56 that
9 morning and was discharged around 7:04 a.m. that morning, there
10 about four hours. Does that square with your recollection?
11 A. That sounds correct.
12 Q. Now, were you personally involved in the treatment
13 of the Defendant in this case, Gary Green?
14 A. Yes, I was.
15 Q. And do you see Mr. Green here in court today?
16 A. I believe so. The gentleman on the -- far to the
17 left.
18 Q. Good sized fellow in the --
19 A. Yes.
20 Q. -- dark suit there --
21 A. Yes. Far to left --
22 Q. -- at the end of the table?
23 A. Far to my left.
24 MR. BEACH: Let the record reflect, Your Honor,
25 the witness has identified the Defendant in open court.

92
1 Q. (BY MR. BEACH) Showing you State's Exhibits 86, 87,
2 88, 89, and 90. Those State's exhibits fairly and accurately
3 represent the way Mr. Green presented to you and the other
4 staff out there at Parkland on September 22nd of 2009?
5 A. Correct. We initially -- I initially saw him in
6 what's called our Apprehension By Police Without Warrant room.
7 This is after he was moved to the trauma room. I personally
8 was the one who identified the stab wounds on the back.
9 Q. And we're going to go put these up on the Elmo, and
10 they'll show up to your left there on the TV screen.
11 A. Okay.
12 Q. Showing you State's 86. This is just a frontal shot
13 of Mr. Green as he appeared there in the trauma unit. Has it
14 come up?
15 A. Yes.
16 Q. Okay. Is that what that reflects, sir?
17 A. Yes.
18 Q. Showing you State's 87. Are these the two
19 superficial stab wounds of the left upper back of Mr. Green
20 that you identified and -- and were treated in the early
21 morning hours of September 22nd?
22 A. Correct.
23 Q. And did Mr. Green also have a number of cuts on his
24 right hand that were identified and noted in the medical
25 records, sir?

1 A. That looks correct.

2 Q. And also a small cut on his right forearm?

3 A. The forearm. There it is. I probably miss -- I

4 didn't -- I don't remember that one.

5 Q. You don't remember that?

6 A. No.

7 Q. All right. Just -- we know you have scheduling

8 conflicts. We really appreciate you coming down here.

9 A. No problem.

10 Q. He's there about four hours. Tell us what you and

11 the other staff out there, what you were concerned about and

12 what treatment Mr. Green received in that four-hour time frame.

13 A. The concern was an ingestion that he did of Tylenol

14 and Benadryl. And that was -- from what I remember either

15 10:00 p.m. or around there, maybe before then, he took it. The

16 concern initially was the overdose because that can kill

17 someone with especially Tylenol. Benadryl can give some other

18 symptoms. So that was our major concern. That's why he stayed

19 there that long. I identified the stab wounds in the back, so

20 he had a brief trauma consult. We have a trauma service that

21 by protocol any kind of penetrating wounds to the chest, the --

22 they have to see the patient. That's why you saw the picture

23 of the patient -- of him in the trauma room.

24 The main concern for us was the Tylenol because

25 it is a toxin that can affect you later on and you can be

94

1 asymptomatic -- in other words, have no symptoms at all. So

2 the reason why he was there is that we wanted to recheck his

3 Tylenol level -- really his liver function test. The Tylenol

4 will injure the liver and often when we're not sure up front,

5 we'll wait about four hours or so and then recheck the blood

6 level, make sure the liver is not having an injury. If not,

7 then whatever the circumstance of the ingestion or the overdose

8 is -- is non-toxic and then he can go where -- he would be

9 discharged to wherever he needs to go.

10 Q. And is it fair to say that you and the staff at

11 Parkland, you would have had to have been fully satisfied that

12 Mr. Green's lab results were within normal range before you

13 would have discharged him?

14 A. Correct. I mean, we -- we err on the side of over

15 treating this kind of problem because it's -- it's just not

16 worth it to miss an injury that is preventable.

17 Q. In State's 85, just the complete body of the medical

18 records from Parkland, I want to represent to you that one of

19 the records states: The patient via EMS and police custody.

20 Is that how you remember Mr. Green, he was -- he was in police

21 custody when you would of first seen him?

22 A. We have an area -- the APAL room which is like a

23 seclusion room. I don't remember who was at the door. It was

24 either -- actually I do remember this. It was a police officer

25 there because of the circumstance of why he was there, and

1 that's where the person was, was in the APAL room.

2 Q. Patient report states taking 60 Tylenol and 60

3 Benadryl at approximately 2200 at night. Patient reports this

4 is a suicide attempt after, quote, killing my wife. Patient

5 reports he was stabbed with a kitchen knife to upper left back,

6 no active bleeding noted.

7 And when you observed Mr. Green there at

8 Parkland, did you -- did you notice any kind of active bleeding

9 from those superficial wounds?

10 A. No. In fact, that's why they were initially missed

11 up in triage. They're missed there. The bigger concern was

12 the ingestion, so being a thorough physician, they found the

13 wounds, and then that's where trauma got involved.

14 Q. Page 6 of the medical records on the psychiatric

15 exam states: His speech is normal. His behavior is normal.

16 Cognition and memory are normal. He exhibits a depressed mood.

17 He expresses suicidal ideation. Does that square with your

18 recollection of talking to Mr. Green and treating him there at

19 Parkland?

20 A. I mean, when I saw him, he was just a very -- just a

21 very calm person. He just didn't tell me much. He was

22 cooperative. I didn't really -- I personally don't really ask

23 patients questions about any kind of legal issue. I just

24 basically say, where are your injuries, how are you feeling.

25 And he was cooperative, alert -- I mean, he was completely with

96

1 it.

2 Q. Doctor, I appreciate you coming down here.

3 A. No problem.

4 THE COURT: Cross?

5 CROSS-EXAMINATION

6 BY MR. JOHNSON:

7 Q. Doctor, as part of the admittance process to the

8 emergency room there at Parkland, the Defendant was evaluated

9 and screened not only for actual physical injuries, but also

10 for mental health type of an examination, was he not?

11 A. What happens first is the medical issues are taken

12 care of first. Then afterwards, he is seen by a psychiatrist

13 for a psychiatric clearance.

14 Q. And, in fact, in this particular situation the

15 Defendant was, in fact, screened for psychiatric issues and

16 conditions; is that correct?

17 A. I -- I don't know. I saw him before. Generally if

18 someone is trying to harm themselves, we'll make sure that

19 whatever injury is nonlife-threatening, or if it is

20 life-threatening, we fix it. Upon that -- medical issue is

21 taken care of, then he is transferred over to see a

22 psychiatrist, and I do not attend over there.

23 Q. Okay. Did you have an opportunity to go back and

24 review your records that you were questioned about earlier

25 today?

1 A. I briefly looked at it, like at work the other day.

2 Q. Were you able to tell or do -- when you looked at

3 them, did you recall there being a psychiatric evaluation done

4 at that time?

5 A. I don't think so, and I believe that it might be how

6 the protocol goes. When someone is under arrest, often they'll

7 be taken to the jail and they'll see a psychiatrist at the

8 jail.

9 Q. Are you the custodian of those records that you were

10 shown earlier?

11 A. Parkland Memorial Hospital is the custodian.

12 Q. So you wouldn't be the one that actually know -- or

13 be familiar with the actual details in regards to the psych

14 screen that would have occurred at that time; is that correct?

15 A. Depends on what level of psychiatric screening you

16 mean. Emergency physician, we're able to handle a lot of

17 different problems. He wasn't actively trying to harm himself

18 there. So I'm not sure what level of psychiatric coverage -- I

19 mean, screening do you mean.

20 MR. JOHNSON: May I approach, Your Honor?

21 THE COURT: Yeah.

22 Q. (BY MR. JOHNSON) This appear to be the same records

23 that the prosecutor just showed you, at Parkland?

24 A. This is jail health.

25 Q. Okay. This is jail --

1 A. This is -- this is the jail screen.

2 Q. Okay. So this is not the record that --

3 A. This is not the record that I was shown.

4 Q. Okay. This is not the one you saw before you came

5 down to testify today?

6 A. The one that he has is the record -- is the proper

7 record.

8 Q. Okay. That's all I needed -- that's all I needed to

9 know.

10 A. The first few pages, from what I've seen, is not

11 what -- is not part of -- under my supervision. That is not

12 the Parkland record I was a part of.

13 MR. JOHNSON: That's all the questions I have at

14 this time.

15 MR. BEACH: May he be excused?

16 THE COURT: You may. Thank you, Doctor.

17 THE WITNESS: No problem.

18 THE COURT: If you would raise your right hand.

19 (Witness brought forward and sworn.)

20 THE COURT: Please have a seat.

21 MR. HARRIS: May I proceed, Judge?

22 THE COURT: Yes.

23 MR. HARRIS: Thank you, sir.

24 JEROME ARMSTEAD,

25 was called as a witness by the State, and after having been

1 first duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. HARRIS:

4 Q. Okay. Go ahead and state your name for the record.

5 A. My name is Jerome Armstead, but you can call me JT.

6 Q. What's your friends and everybody call you, JT?

7 A. Yes, sir.

8 Q. What's your family call you, JT?

9 A. Yes, sir.

10 Q. All right. So I'm going to call you JT.

11 A. Yes, sir.

12 Q. All right. Now, as far as coming in here to testify

13 today, I think you were down here yesterday, remember?

14 A. Yes, sir.

15 Q. And we talked about you testifying and basically

16 telling this good Judge and the ladies and gentlemen on this

17 jury exactly what happened the night that your mom and your

18 sister was killed, okay? All right?

19 A. Yes, sir.

20 Q. All right. Are you prepared to do that?

21 A. Yes, sir.

22 Q. All right. And I mean, how old are you now?

23 A. Thirteen.

24 Q. All right. So you're 13, and this happened when you

25 were 12?

1 A. Yes, sir.

2 Q. Back in September of 2009, correct?

3 A. Yes, sir.

4 Q. And just to get over the formality, you understand

5 the difference between the truth and a lie, correct?

6 A. Yes, sir.

7 Q. And you understand you're here to tell the members

8 of the jury the truth about what happened, correct?

9 A. Yes, sir.

10 Q. All right. Let's -- let's just go ahead and tell

11 the members of the jury back in -- let's just talk about

12 September of 2009. Were you in school then?

13 A. Yes, sir.

14 Q. Where were you going to school at?

15 A. I was going to Atwell Elementary.

16 Q. Atwell Elementary?

17 A. Well, it's an elementary and a middle school type

18 thing.

19 Q. And let me tell you, JT, your voice is a little --

20 now I know your voice ain't soft because we've -- we've been

21 talking, right?

22 A. Yes, sir.

23 Q. All right. So go ahead and speak up and -- because

24 I want to make sure that the court reporter and these -- the

25 men and women on this jury can hear everything you've got to

1 say. Can you do that for me?

2 A. Yes, sir.

3 Q. All right. So you're over there at Atwell?

4 A. Yes, sir.

5 Q. And what grade you in over there?

6 A. Seventh.

7 Q. Okay. And did your mom actually, I guess, sub at

8 Atwell, too?

9 A. Yes, sir.

10 Q. And was she subbing at Atwell back in September of

11 2009?

12 A. Yes, sir.

13 Q. Okay. Who else was in your family?

14 A. My little brother and my little sister and Gary.

15 Q. Okay. Well, let me just ask you this. Where did

16 y'all live in September of 2009?

17 A. 3844 Morning Springs Trail.

18 Q. Okay. Is that over in what we call Oak Cliff?

19 A. Yes, sir.

20 Q. Okay. You act like you were trying to smile.

21 Again, you lived at that 3844 Morning Trail. Who all lived

22 there, September of 2009?

23 A. Me, my little brother, my little sister, Gary, and

24 Ruthie stayed with us for a while.

25 Q. Now who?

1 A. Ruthie.

2 Q. Ruthie? Okay. Ruthie is a friend of the family?

3 A. She's my grandmother.

4 Q. Oh, okay. Let me also ask you -- well, let's go

5 ahead and get this out of the way. You said -- you keep saying

6 Gary. Do you see Gary in the courtroom?

7 A. Yes, sir.

8 Q. All right. Can you just point him out and just

9 describe an article of clothing he's wearing?

10 A. He's right over there beside the young man with the

11 pin-striped shirt. He's wearing a blue and silverish tie, a

12 black suit and glasses, with a white --

13 Q. This is the person you're referring to as Gary?

14 A. Yes, sir.

15 Q. This is Gary Green?

16 A. Yes, sir.

17 Q. It would have been your stepdad back in 2009 --

18 September of 2009?

19 A. Yes, sir.

20 Q. All right. Now, what's your little brother name

21 again?

22 A. My little brother's name is Jerrett Armstead.

23 Q. And he came in the court with you a little earlier,

24 right?

25 A. Yes, sir.

1 Q. Okay. And as far as in September of 2009, what

2 grade was he in, do you remember?

3 A. No, sir.

4 Q. Okay. Let's just get right to that day. Do you

5 remember September the 21st of 2009?

6 A. Yes, sir.

7 Q. Hard -- hard to forget, huh?

8 A. Yes, sir.

9 Q. Okay. Let's talk about -- did you go to school that

10 day?

11 A. Yes, sir.

12 Q. Did Jerrett go to school that day?

13 A. No, sir.

14 Q. Why Jerrett didn't go to school that day?

15 A. He got in trouble.

16 Q. Okay. So where was Jerrett?

17 A. He was at the house.

18 Q. By his self?

19 A. No, with Gary.

20 Q. Okay. While he's at the house with Gary, anything

21 happen?

22 A. No, sir.

23 Q. At some point you get out of school; how do you get

24 home that day?

25 A. I ride the bus.

1 Q. You get home. Is your mom and Jazzmen there?

2 A. No, sir.

3 Q. Where are they, do you know?

4 A. No, sir.

5 Q. Okay. At some point does your mom come home?

6 A. Yes, sir.

7 Q. Is Jazzmen with her?

8 A. Yes, sir.

9 Q. Now, on that particular Monday -- that was a Monday

10 night, right?

11 A. Yes, sir.

12 Q. Monday, y'all go to --

13 A. DIOP.

14 Q. DIOP. Now, what is DIOP?

15 A. Disciples in Ongoing Preparation.

16 Q. And that's at a church?

17 A. Friendship West.

18 Q. What's the name of the church?

19 A. Friendship West.

20 Q. Okay. Who is your pastor over there at Friendship

21 West?

22 A. Freddie Haynes.

23 Q. You like going to Friendship West?

24 A. Yes, sir.

25 Q. Okay. And tell the members of the jury a little bit

105

1 about that DIOP program. What do y'all do at DIOP?

2 A. In DIOP we have different lessons relating to

3 teenagers about like everything that's going on in everyday

4 life because, you know, there's a big kid church and there's a

5 kids' church and sometimes we don't understand what they're

6 talking about towards y'all. So DIOP was like something that

7 would help us out understanding what they were saying to y'all,

8 but it related to us.

9 Q. Okay. Let me show you what's marked as State's

10 Exhibit Number 126. That look like Friendship West?

11 A. Yes, sir.

12 Q. Okay. 125, is that the front part of Friendship

13 West?

14 A. Yes, sir.

15 Q. Okay. 124, is that just a different angle of

16 Friendship West?

17 A. That would be the back of Friendship West.

18 Q. The back of Friendship West Baptist Church?

19 A. Yes, sir.

20 Q. And can you tell if that's -- State's Exhibit 123 is

21 an aerial of Friendship West Baptist Church?

22 A. Yes, sir.

23 Q. And then State's Exhibit Number 122 is actually an

24 aerial that has Friendship West here and where you live at 3844

25 Morning Springs Trail up here?

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1 A. Yes, sir.

2 Q. All right. Going from your house, how would y'all

3 normally go to the church?

4 A. I really can't remember.

5 Q. You don't remember?

6 A. No, sir.

7 Q. Okay. Was it -- safe to say -- let me show you

8 this -- this aerial. And if you live here and the church is

9 here, you are familiar with Polk Street?

10 A. Yes, sir.

11 Q. All right. Did y'all sometime go down Polk Street

12 to get to the church?

13 A. Yes, sir.

14 Q. All right. Or you could take 67, correct?

15 A. Yes, sir.

16 Q. Okay. Well, which way would y'all normally go?

17 Would y'all go this way over here to 67, or would y'all take

18 Polk?

19 A. We would usually take 67.

20 Q. Okay. But it's -- it's a -- how long did it take

21 you to get from the church to your house?

22 A. Not very long, probably about five to ten minutes.

23 Q. Okay. And as far as this -- I guess Friendship

24 West, when y'all go to that church, it's a pretty big church,

25 isn't it?

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1 A. Yes, sir.

2 Q. And when you go to the DIOP class, which one of

3 these doors would -- would you normally enter on a Monday

4 evening to go to your class at the church?

5 A. It's not that one. It's like -- if you go to the

6 side, there's going to be a gate. And then you drive into the

7 parking lot and there's a side door and we go in through that

8 door.

9 Q. Okay. So if this is the -- let me show you -- if

10 this is the front of the church -- is that the front of the

11 church?

12 A. Yes, sir.

13 Q. Okay. Would you go in this entrance here?

14 A. No, sir.

15 Q. Okay. So you see this would be the side of the

16 church, right?

17 A. Yes, sir.

18 Q. Is that the door that you would go in?

19 A. Yes, sir.

20 Q. Okay. So if that -- would be this door here?

21 A. Yes, sir.

22 Q. Correct? Is that correct?

23 A. Yes, sir.

24 Q. Okay. Now, at some point during that afternoon,

25 your mom would have dropped you and Jerrett at the church?

108

1 A. Yes, sir.

2 Q. Who else would have been with her when she dropped

3 you off?

4 A. My little sister.

5 Q. Okay. And about what time would that have been?

6 A. 7:30.

7 Q. So was it -- are you sure it was 7:30?

8 A. Like 7 o'clock -- never mind. 7 o'clock, because

9 that's what time DIOP starts.

10 Q. Okay. About what time do y'all get out of DIOP?

11 A. 8:30.

12 Q. So your mom and your sister dropped you off?

13 A. Yes, sir.

14 Q. Who ends up picking you up?

15 A. My mom and my little sister.

16 Q. No, who picks you up?

17 A. Oh, my mom.

18 Q. On -- I'm talking about on Monday, September the

19 21st of 2009.

20 A. Oh, Gary.

21 Q. Okay. Now, after your mom drops you off, would that

22 have been the last time you spoke to your mom?

23 A. Yes, sir.

24 Q. Would that have been the last time you seen your mom

25 alive that day?

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1 A. Yes, sir.

2 Q. Let's talk about what happens when Gary picks you

3 up. Now, when y'all get out of DIOP, does Gary actually come

4 into the building to pick y'all up or does he stay out in the

5 car?

6 A. He comes into the building and sits on the bench by

7 the door.

8 Q. Okay. So as soon as you go into this door here,

9 there is -- when you go -- when you enter into here, there's a

10 seat -- a sitting area?

11 A. Yes, sir.

12 Q. And he's sitting in that area?

13 A. Yes, sir.

14 Q. Can you tell the members of the jury if you remember

15 what he was wearing?

16 A. He was wearing a black dress shirt, some black

17 slacks, and some black dress shoes.

18 Q. Do you remember him having on a tie?

19 A. No, sir.

20 Q. You don't remember that?

21 A. No, sir.

22 Q. Okay. But he's dressed in all black?

23 A. Yes, sir.

24 Q. When Gary comes to pick you and Jerrett up, are you

25 surprised to see him?

110

1 A. Yes, sir.

2 Q. And why is that?

3 A. Because he usually never picked us up.

4 Q. Who would normally pick you up?

5 A. My mom.

6 Q. Okay. That's from church, right?

7 A. Yes, sir.

8 Q. At some point y'all start going back to your house;

9 is that correct?

10 A. Yes, sir.

11 Q. Do you ask Gary where your mom is?

12 A. No, sir.

13 Q. Do you know where your mom is?

14 A. Yes, sir.

15 Q. Where is she?

16 A. He says they were -- my mom was out clubbing with

17 her friend Shante and that my little sister was over my Granny

18 Margarita's house.

19 Q. Okay. That's what he tells y'all when y'all are

20 leaving the church?

21 A. Yes, sir.

22 Q. After you leave the church, where do y'all go?

23 A. To our house.

24 Q. When you get to your house, tell the members of the

25 jury what -- what happens.

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1 A. When we get to our house, we stop at the garage and

2 it was raining so Gary send me to the garage to open it. And

3 then he went and he said he was about to call our mom to see if

4 she wanted us to get dropped off at our granny house. And then

5 he come back a few minutes later and said that she said no. So

6 we parked the car in the garage, and then he told me that I

7 needed to go take a bath because my mom said I was ripe.

8 Q. Okay. Let me -- let me ask you. When you -- when

9 he -- when you see him at the church, anything unusual about

10 how he's acting?

11 A. No, sir.

12 Q. When y'all drive from the church back to your house,

13 anything unusual about the way he's acting?

14 A. He was smiling, and he was asking us what happened

15 at church, like what did we talk about in DIOP and stuff.

16 Q. Okay. And I guess once y'all get back to the house,

17 after he's asked you about what you learned at this Disciple

18 program, is there -- is there anything unusual about the way

19 he's acting?

20 A. No, sir.

21 Q. Anything that causes you to have any type of pause?

22 A. No, sir.

23 Q. Okay. So he tells you to take a shower or to take a

24 bath?

25 A. Yes, sir.

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1 Q. Because your mom said you were ripe?

2 A. Yes, sir.

3 Q. And when you say ripe, you mean a little musty,

4 right?

5 A. Yes, sir.

6 Q. Like little boys sometimes get, right?

7 A. Yes, sir.

8 Q. Okay. And do you do that?

9 A. Yes, sir.

10 Q. Okay. So you go to take a bath; is that correct?

11 A. Yes, sir.

12 Q. And you take a bath or you take a shower?

13 A. A bath.

14 Q. Now, most little boys try to take showers, but you

15 sure you take a bath?

16 A. Yes, sir.

17 Q. So you go in and start running your water, right?

18 A. Yes, sir.

19 Q. And where is Jerrett while you're doing all that?

20 A. In our room.

21 Q. So Jerrett goes to your room, and you go to take a

22 bath?

23 A. Yes, sir.

24 Q. Okay. Now, remember we talked about how you can

25 touch that screen?

1 A. Yes, sir.

2 Q. And the arrows come up, remember that?

3 A. Yes, sir.

4 Q. Let me fold that down a little bit for you. Yeah.

5 And we're going to get real fancy today. We're going to use

6 the pointer rather than your finger, okay?

7 THE COURT: Hold on, hold on.

8 MR. HARRIS: That won't go up? Okay.

9 THE COURT: That thing is really sensitive --

10 MR. HARRIS: Okay, Judge.

11 THE COURT: And Becky will have your head.

12 MR. HARRIS: We won't touch it, Judge.

13 Q. (BY MR. HARRIS) Okay. What I want you to do is

14 show the members of the jury, first of all, which restroom you

15 take a bath in.

16 A. (Witness so indicates.)

17 Q. So you're in there running the water, and which room

18 is Jerrett in?

19 A. (Witness so indicates.)

20 Q. Okay. So that particular room would be the room

21 that you and Jerrett slept in, right?

22 A. Yes, sir.

23 Q. And the other room next to that would have been

24 Jazzmen's bedroom?

25 A. Yes, sir.

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1 Q. And then your mother had the master bedroom,

2 correct?

3 A. Yes, sir.

4 Q. Okay. Now, at some point you're in taking a bath.

5 Then what happens?

6 A. The next thing I know my little brother is screaming

7 my name, talking about JT, JT, help, he's trying to kill me.

8 So I took my clothes and I ran out of the bathroom. And then I

9 stopped at the door and then Gary was holding Jerrett by his

10 collar and bringing him to the restroom with me.

11 Q. Okay. Now, does he -- when he's screaming JT, JT,

12 help, he's trying to kill me, is he doing it as calmly as you

13 did just then?

14 A. No, sir.

15 Q. Okay. So he's screaming for his big brother?

16 A. Screaming and crying.

17 Q. Okay. And the next thing you know, they're at the

18 bathroom door. And then what happens?

19 A. And then he throws Jerrett up against the toilet,

20 and then I jump back up in the bathtub. And then he comes in

21 and sits on the counter and locks the bathroom door.

22 Q. Okay. Let me stop you there. So you hear your

23 brother screaming for you?

24 A. Yes, sir.

25 Q. Saying he's trying to kill me?

1 A. Yes, sir.

2 Q. When you peep out the bathroom door, there your

3 brother and Gary Green is. And then Gary forces him into the

4 bathroom where you are?

5 A. Yes, sir.

6 Q. And once he forces him into the bathroom, he throws

7 him onto the toilet?

8 A. When he throws him in, Jerrett goes into the toilet.

9 Q. Okay. Goes into the toilet. You jump back in the

10 bath?

11 A. Yes, sir.

12 Q. Now, when all this goes down, do you have your

13 clothes on?

14 A. No, sir.

15 Q. Okay. So you're naked at this point?

16 A. Yes, sir.

17 Q. Okay. And I mean, do you know what's going on?

18 A. No, sir.

19 Q. Tell the members of the jury what happens after he

20 throws Jerrett into the -- the toilet.

21 A. When he throws Jerrett into the toilet, he's asking

22 us like questions like now give me some reasons why I shouldn't

23 kill y'all. And then my little brother is doing all the

24 talking because I'm scared and I don't know what to say. So my

25 little brother is telling him we're too young to die and we --

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1 yes, we do respect you and all this stuff. And Gary asked me a

2 question, and I didn't answer. And my little brother starts

3 talking, so he stabbed Jerrett in the stomach and told him to

4 shut up.

5 Q. Okay. Let me stop you there. Now, this whole time,

6 again, you're -- you're standing back in the tub, right?

7 A. Yes, sir.

8 Q. And Jerrett is over by the commode?

9 A. Yes, sir.

10 Q. And this Defendant is standing there by the counter?

11 A. Yes, sir.

12 Q. Now, you said that he stabbed him. What did he stab

13 him with?

14 A. He had three knives. There was one skinny one, one

15 medium sized one, and one that was like -- it was kind of like

16 a butter knife, but it was like really sharp.

17 Q. Okay. What makes you think he had three knives?

18 A. Because he sat them on the counter.

19 Q. You saw him sit three knives on the counter?

20 A. Yes, sir.

21 Q. And at some point he grabs one of the knives and

22 stabs your brother?

23 A. Yes, sir.

24 Q. Okay. Then what happens?

25 A. And then after he stabs my brother, I push him off

1 my little brother. And he goes up with the knife like that, to
2 try and cut me, but he missed.
3 Q. Okay. So he doesn't cut you?
4 A. No, sir.
5 Q. When that happens, what is -- what is Jerrett doing?
6 A. Jerrett is holding his stomach, and then he's crying
7 and trying to move out of the way.
8 Q. Okay. Then what happens?
9 A. And then after that, Gary was like, come on, I got
10 to show y'all something. And then --
11 Q. Okay. Let me stop you there. Now, I think you told
12 the members of the jury that your little brother is telling
13 this Defendant that y'all are too young to die?
14 A. Yes, sir.
15 Q. Plead -- pleading for y'all's life?
16 A. Yes, sir.
17 Q. And you're -- at that point you're shocked?
18 A. Yes, sir.
19 Q. And you're not saying anything?
20 A. No, sir.
21 Q. And did you -- you -- you said that Gary asked
22 y'all -- tell y'all -- tell him why y'all shouldn't die?
23 A. He said give us some reasons.
24 Q. What did he say?
25 A. He said give me some reasons why I shouldn't kill

1 y'all.
2 Q. Okay. And at that point is -- is Jerrett basically
3 giving him those reasons?
4 A. Just blurting out reasons.
5 Q. Okay. At some point he decides not to kill you,
6 right?
7 A. Yes, sir.
8 Q. Does he actually tell you, I'm not going to kill
9 you?
10 A. Yes, sir.
11 Q. All right. Then what happened?
12 A. And then when my little brother -- when he said
13 that, I got to show y'all something, my little brother walks
14 out and he tells me to put on some clothes. So I put on my
15 boxers and my shorts and then I walk behind my little brother.
16 Q. Let me stop you there. Let me ask you. Now, up to
17 this point, do you know where your mother is?
18 A. No, sir.
19 Q. Up to this point, do you know where your sister is?
20 A. No, sir.
21 Q. Okay. So up to this point, all you know is that he
22 stabbed your -- your little brother?
23 A. Yes, sir.
24 Q. And -- and -- and basically tried to kill both of
25 y'all?

1 A. Yes, sir.
2 Q. But now he's told you that he's going to let y'all
3 live, and he wants to show you something?
4 A. Yes, sir.
5 Q. Well, why -- why don't you run?
6 A. He's a really big dude.
7 Q. Okay.
8 A. And then our door has like -- like four locks on it,
9 and it wouldn't have -- it would have took a real long time
10 because we're under pressure, so kind of shaking our hands, and
11 then it would have been pretty hard to get it unlocked fast
12 enough to get out the door.
13 Q. Okay. So at some point he says, I've got to show
14 y'all something, what -- and then what happens?
15 A. My little brother walks out. He tells me to put on
16 some clothes, so I put on my boxers and my shorts. When my
17 little brother is about to walk about the door, Gary takes the
18 knife and put it up to Jerrett's neck and start kind of like
19 trying to screw it in. And then my little brother ducks down
20 and he backs up and then he gets back against the toilet. And
21 then he just kind of sat there. And then Gary was like, all
22 right, come on. So the second time when we walked out, we made
23 it to my mom's room.
24 Q. Okay. Show us on the -- the diagram where y'all
25 would have walked to.

1 A. (Witness so indicates.)
2 Q. Now, do y'all actually go inside the room?
3 A. Yes, sir.
4 Q. Once you get to the room, tell the members of the
5 jury what you see.
6 A. When we get to the room -- when Gary takes the knife
7 to unlock the door, when we see our mom's body, we just like
8 fall on our knees and start crying. And we were screaming and
9 yelling. And next Gary was asking Jerrett to get him some
10 clothes, and then he just starts --
11 Q. Okay. Let me stop you there. Now, y'all getting to
12 the door of your mother's bedroom?
13 A. Yes, sir.
14 Q. Is that door open or closed?
15 A. It's closed.
16 Q. Is it locked or unlocked?
17 A. Locked.
18 Q. Who unlocks the door?
19 A. Gary.
20 Q. Then he opens the door, and you see -- you and your
21 brother see your mom where?
22 A. On the floor.
23 Q. Okay. When you see your mom on the floor, does she
24 appear to be breathing?
25 A. No, sir.

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1 Q. Did you see any blood?

2 A. Yes, sir.

3 Q. So once you and your brother see your mom, I think

4 you told the members of the jury that you just fall to your

5 knees and start crying?

6 A. Yes, sir.

7 Q. What does this Defendant do?

8 A. He's just like -- just sitting there looking at us,

9 and then he tells my little brother to grab him some clothes

10 while he's ripping off his dress shirt and taking off his pants

11 and stuff.

12 Q. Okay. And where is he doing that at? Is he in the

13 room?

14 A. Yes, sir.

15 Q. Okay. Does your brother get up and -- and get him

16 some clothes?

17 A. Yes, sir.

18 Q. And while he's doing that, what are you doing?

19 A. Still looking at my mom.

20 Q. At this point do you have any idea where your sister

21 is?

22 A. No, sir.

23 Q. Then what happens?

24 A. Then we start -- when I got up, me and my little

25 brother walked towards the bathroom, and then when we looked in

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1 the bathroom, my little sister was against the tub with her

2 hands taped behind her back.

3 Q. Okay. Why do y'all -- why do y'all walk toward the

4 bathroom?

5 A. Because we knew if our mom was there, our sister had

6 to be there.

7 Q. Okay. And when you looked in that bathroom, tell

8 the members of the jury -- that you said your sister had her

9 hands behind her back?

10 A. They were taped behind her back.

11 Q. Taped with what, could you tell?

12 A. The little gray tape.

13 Q. Duct tape?

14 A. Yes, sir.

15 Q. What about her feet?

16 A. No, sir.

17 Q. You couldn't tell?

18 A. No, sir.

19 Q. Was -- did you see blood there?

20 A. Yes, sir. It was all over the bathroom.

21 Q. Okay. And when you see your -- your baby sister,

22 does she appear to be breathing?

23 A. No, sir.

24 Q. Okay. After you see your baby sister on the floor,

25 duct tape, blood all over the bathroom, what happens next?

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1 A. Then Gary asked me to hand him these pills that were

2 up in the dresser.

3 Q. Okay. Let me stop you there. Do you have to go

4 into the bathroom where your little sister is or --

5 A. Yes, sir.

6 Q. -- or -- what dresser do you go to?

7 A. The middle one where all the medicine is.

8 Q. In the bathroom?

9 A. Yes, sir.

10 Q. So why do you go into the bathroom to get the pills?

11 A. Because that's where all our medicine and stuff was

12 at.

13 Q. Does he tell you to go into the bathroom to get the

14 pills?

15 A. He just tells me to get the pills, and I knew that's

16 where they was at.

17 Q. So he makes you go into the bathroom where your

18 little sister is on the floor with all that blood?

19 A. Yes, sir.

20 Q. And was it a bottle of pills? What was it? Do you

21 remember?

22 A. The little tablets where you can like pop them out,

23 the aluminum.

24 Q. Okay. And while he's giving all these orders, where

25 is he?

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1 A. Putting on his clothes -- the new clothes that he

2 told Jerrett to get him.

3 Q. I mean, is he standing up in the bedroom? Is he

4 sitting on the bed? What is he doing, do you know?

5 A. He's standing up.

6 Q. Standing up just giving you and Jerrett orders?

7 A. Yes, sir.

8 Q. You get the pills or you give them to him?

9 A. I give them to him.

10 Q. Does he still have the knives at that point?

11 A. No, sir.

12 Q. Then what happens?

13 A. He throws my mom's cell phone on the bed and says:

14 After I leave, call the police. And then he starts walking

15 towards the door, and then I was --

16 Q. All right. Let me stop you there because I want to

17 make sure -- now, from the master bedroom -- now, that master

18 bedroom, you got the bathroom about right here, right, in that

19 corner?

20 A. Yes, sir.

21 Q. Look at me. Right? If your mom's bed is here,

22 right?

23 A. Yes, sir.

24 Q. Then you got -- you got -- that master bathroom is

25 here, right?

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1 A. Yes, sir.

2 Q. Okay. Now, when you first are looking -- let's say

3 this is your -- your -- the door to your mom's bedroom. When

4 you look into that door, y'all go ahead and come into the room,

5 right? Right?

6 A. Yes, sir.

7 Q. And both y'all just collapse to your knees because

8 you're crying because your mom is on the floor?

9 A. Yes, sir.

10 Q. All right. At some point y'all come down and you're

11 looking into the bathroom?

12 A. Yes, sir.

13 Q. And you see your baby sister on the floor?

14 A. Yes, sir.

15 Q. Okay. Then he makes you go into the bathroom?

16 A. Yes, sir.

17 Q. When you go into the bathroom, do you have to step

18 over your -- over your mom?

19 A. Yes, sir.

20 Q. So you step -- because your mom is right there near

21 the bathroom door, right?

22 A. Yes, sir.

23 Q. So you have to step over your mom, walk right by

24 your sister to get this medicine?

25 A. Yes, sir.

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1 Q. To get these pills?

2 A. Yes, sir.

3 Q. And then you come back across your sister, across

4 your mom, to give the pills to this Defendant; is that correct?

5 A. Yes, sir.

6 Q. I mean, is there blood on the floor?

7 A. Yes, sir.

8 Q. Do you have to step through your mom and your

9 sister's blood?

10 A. Yes, sir.

11 Q. So you give him the pills, he takes the cell phone,

12 throws it on the bed, and tells you what?

13 A. To call the police after he leaves.

14 Q. Okay. Then what happens?

15 A. Then when he was walking towards the door, I started

16 to dial the numbers. And he turns around and he sees me, and

17 he says, I said after I leave, JT. And then I was like, oh, my

18 bad. And then when he walks out the door, we followed him.

19 And then he's in the car. And then he says: You know how I

20 told y'all to say, see you later, never bye?

21 Q. Okay. Slow down. You're going too fast. As he's

22 getting ready to go, he tells y'all, you know, I tell you, see

23 you later?

24 A. Never bye.

25 Q. And never bye. What does that mean?

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1 A. See you later -- say see you later and never bye,

2 means like -- bye means you're never going to see somebody

3 again. And see you later means you're going the see them. It

4 might not be today or the next day, but you're still going to

5 see them again.

6 Q. Okay. So what exactly does he tell y'all?

7 A. He says: You know how I told y'all to say, see you

8 later and never bye? And then he said, pauses for a minute,

9 and he says, well, this is good-bye. And then Jerrett starts

10 crying even more, and then he drives off with the car.

11 Q. All right. Let me take you back to when y'all first

12 go into that bedroom and you see your mom. You realize that

13 your mom and your sister are -- are dead?

14 A. Yes.

15 Q. Or appear to be dead, correct?

16 A. Yes, sir.

17 Q. Did he tell you he had killed them?

18 A. Yes, sir.

19 Q. Okay. Do you remember him saying something about he

20 loved your mom?

21 A. Yes, sir.

22 Q. What exactly did he tell y'all?

23 A. He said he loved our mom to death.

24 Q. Before he left the house and before y'all left that

25 bedroom where your mom and sister lie dead, did he make y'all

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1 give him a hug?

2 A. Yes, sir.

3 Q. Once he leaves, do you call 911?

4 A. Yes, sir.

5 Q. And while you're calling 911, tell the members of

6 the jury what's going on.

7 A. When I called 911, we ran over to our next-door

8 neighbor, Ms. Tasha's house, because my little brother was hurt

9 and I didn't know what to do. So we're banging on her door,

10 and then when she opens the door and we were like, our mom and

11 our sister are dead. She was like, y'all don't need to be

12 playing like that. We was like, no, seriously, they're dead.

13 So she was like, are you serious? And then she -- we were

14 talking to the police, so she grabbed the phone and then she

15 starts walking over to our house. And then from there she was

16 talking to the police and we were up in the house. And her

17 daughter was cleaning up my brother's stab wound.

18 Q. At some point the paramedics arrive?

19 A. Yes, sir.

20 Q. The police arrive?

21 A. Yes, sir.

22 Q. Do they, I guess, take y'all off in the ambulance?

23 A. Yes, sir.

24 Q. Does your brother get treated for his wounds?

25 A. Yes, sir.

1 Q. Okay. Were you there when your -- your grandmother
2 made it there?
3 A. No, sir.
4 Q. What about your uncle?
5 A. Yes, sir.
6 Q. You were there when your uncle made it?
7 A. Yes, sir.
8 Q. Okay. Do you remember the last thing your mother
9 said to you?
10 A. Huh-uh, no, sir.
11 Q. Okay. You just remember that she left both of y'all
12 at church?
13 A. Yes, sir.
14 Q. Okay.
15 MR. HARRIS: I'll pass the witness, Judge.
16 THE COURT: Cross?
17 CROSS-EXAMINATION
18 BY MR. JOHNSON:
19 Q. JT, do you remember what kind of pills it was that
20 Gary had told you to go get for him?
21 A. No, sir.
22 Q. Did he tell you what he wanted the pills for?
23 A. No, sir.
24 Q. Did he tell you that he was going to take the pills
25 and kill himself?

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1 A. No, sir.
2 Q. Did he ever tell you that he was going to kill
3 himself?
4 A. Yes, sir.
5 Q. When did he tell you that?
6 A. When he was driving off.
7 Q. I'm sorry?
8 A. When he was driving off.
9 Q. When he was driving home?
10 A. When he was driving off.
11 Q. He never told you that inside the house?
12 A. No, sir.
13 Q. What kind of pills did he tell you to get?
14 A. I can't remember the name.
15 Q. And when he was leaving, he told you that this time
16 he was saying good-bye which meant y'all would never see him
17 again?
18 A. Yes, sir.
19 Q. What did you take that to mean?
20 A. That he was going to go kill himself.
21 Q. JT, that's all the questions I have for you right
22 now, sir. Thank you.
23 THE WITNESS: Thank you.
24 THE COURT: Anything else?
25 MR. HARRIS: Nothing else. Nothing further,

1 Judge.
2 THE COURT: Thanks, JT.
3 THE WITNESS: You're welcome.
4 THE COURT: Ladies and gentlemen, we're going to
5 take a quick break.
6 THE BAILIFF: All rise.
7 (Jury excused from courtroom.)
8 THE COURT: Okay. We're ready. Everyone can
9 stay seated.
10 (Recess.)
11 THE BAILIFF: All rise.
12 THE COURT: Everybody can stay seated.
13 (Jury returned to courtroom.)
14 THE COURT: Everyone stay seated. Just
15 everybody sit down. We're fine. We're breaking protocol.
16 Everyone is staying seated, changing it up on you.
17 It got cold in here.
18 All right. Raise your right hand, if you would.
19 (Witness sworn.)
20 THE WITNESS: I promise to tell the truth, the
21 whole truth, but nothing but the truth.
22 THE COURT: Very good. Your witness.
23 JERRETT ARMSTEAD,
24 was called as a witness by the State, and after having been
25 first duly sworn, testified as follows:

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1 DIRECT EXAMINATION
2 BY MR. BEACH:
3 Q. What's your name?
4 A. Jerrett Armstead.
5 Q. And, Jerrett, what day were you born?
6 A. June 2nd, 2000.
7 Q. So now you are a whole big, what, ten years old?
8 A. Yes.
9 Q. Okay. Where are you going to school right now?
10 A. Alexander.
11 Q. And you had a great day last Friday, didn't you?
12 Remember Friday?
13 A. Yes, sir.
14 Q. What happened that was so good last Friday?
15 A. I finally got out the Summit.
16 Q. Now, your Grand Daddy West, he's figured out
17 whipping you doesn't do much good; is that right?
18 A. Yes.
19 Q. When he takes those video games away, that gets your
20 attention, doesn't it?
21 A. Yes.
22 Q. And last Friday you got out of alternative school,
23 you got your games back, right?
24 A. Yes.
25 Q. So what's the lesson you learned from all that?

1 A. That I need to start being good.

2 Q. That a boy. Okay. We know who your mom was and

3 your sister, and we just heard from JT. You got a lot of

4 family here in court today, don't you?

5 A. Yes.

6 Q. Okay. And they're here to support you. Back in

7 2009, you were living out there on Morning Springs with your

8 mom and your brother and your sister and Gary Green; is that

9 right?

10 A. Yes.

11 Q. You've seen Gary here in court today, and it's hard

12 for you to see Gary, isn't it?

13 A. Yes.

14 Q. Is he the man there at the end of the counsel table

15 in the navy blue suit?

16 A. Yes.

17 Q. And Gary lived with you and your mom and your

18 brother and your sister off and on for a little over two years;

19 is that right?

20 A. Yes.

21 Q. And actually near the end there, Gary and your mom

22 got married there in the house?

23 A. Yes, sir.

24 Q. Were you there when they got married?

25 A. Yes, sir.

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1 Q. Fact of the matter is, Jerrett, it's hard for you

2 because you loved Gary, didn't you?

3 A. Yes.

4 Q. Gary was nice to you from time to time, wasn't he?

5 A. Yes.

6 Q. Really, you didn't really have a dad around, did

7 you?

8 A. No.

9 Q. And that's what makes this so much harder is because

10 you kind of trusted him and you did love him, didn't you?

11 A. Yes.

12 Q. Now, let's just go right to that day, Jerrett. Get

13 through this as fast as we can. You had to -- you had to stay

14 home from school that day; is that right?

15 A. Yes, sir.

16 Q. Because you had been bad at school, right?

17 A. Yes.

18 Q. And Gary -- Gary was in the house that Monday,

19 wasn't he?

20 A. Yes.

21 Q. Now, did Gary like --

22 MR. JOHNSON: Excuse me, Judge. I'm going to

23 have to ask that this be done in question and answer, just a

24 little bit too much leading here.

25 MR. BEACH: Well, I can get to -- one more --

1 just one more quick question.

2 THE COURT: One more leading question.

3 MR. BEACH: Thank you.

4 Q. (BY MR. BEACH) Did Gary like to play video games

5 there at the house?

6 A. Yes.

7 Q. Now, that Monday, Jerrett, before you and your

8 brother were taken to DIOP at the church, did anything really

9 unusual happen that day?

10 A. No, sir.

11 Q. Okay. Just kind of a normal Monday where you were

12 in trouble at school and you stayed home and waited for your

13 brother and sister and mom to get home?

14 A. Yes, sir.

15 Q. Now, we've heard about DIOP. You would have been in

16 what grade back in 2009 -- third grade or second grade?

17 A. Fourth.

18 Q. You were in fourth grade then. Okay. So you were

19 in the fourth grade. How many people were in the DIOP class

20 there?

21 A. A lot.

22 Q. Okay. What kinds of things were you learning, do

23 you remember?

24 A. About God, like why he died for our sins.

25 Q. And you and your brother, you didn't just go there

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1 Monday night, you -- you took some other classes there at the

2 church; is that right?

3 A. Yes.

4 Q. What kinds of other activities did you and your

5 brother do at the church?

6 A. Karate.

7 Q. Okay. And when you and your brother normally were

8 at the church, whether it was Monday night or Tuesday or

9 Wednesday, would your mom go and work at the day care there at

10 the church?

11 A. Yes.

12 Q. We've also heard -- what other kind of jobs did your

13 mom have?

14 A. Working at my school and working at Atwell.

15 Q. Okay. Substitute teacher?

16 A. Yes.

17 Q. Now, do you remember, Jerrett, what time you were

18 supposed to be at the church for DIOP?

19 A. 8:30.

20 Q. Now, what time did it start? Do you remember?

21 A. No, sir.

22 Q. Okay. But it was sometime after your mom got home

23 from work and she would take you and your brother to church; is

24 that correct?

25 A. Yes.

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1 Q. And we've seen a photograph of where the church was

2 in relation to where your house was. Do you remember how that

3 night, how your mom -- I guess if you were paying attention,

4 how you all would have gotten to church that night, what road

5 you would have taken?

6 A. Yes.

7 Q. Where did you go?

8 A. On the side where the -- where the freeway is.

9 Q. Okay. That's the door that you would have gone in?

10 A. Yes, where the bench was.

11 Q. And what time did DIOP normally end that night? Is

12 that about 8:30?

13 A. Yes.

14 Q. And usually when DIOP was over, who would pick you

15 up?

16 A. My mom.

17 Q. She wasn't working, would she pick you up anyway,

18 usually?

19 A. Yes.

20 Q. Now, who did -- who actually picked you up that

21 night?

22 A. Gary.

23 Q. And you remember what kind of clothes Gary had on

24 when he came and picked you up at church that Monday night?

25 A. Yes.

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1 Q. What did he have on?

2 A. All black.

3 Q. Kind of like his church clothes, almost?

4 A. Yes.

5 Q. And on the ride home, he was in your mom's Cruiser;

6 is that correct?

7 A. Yes.

8 Q. On the ride home that night, did anything unusual

9 happen one way or the other in the car on the ride home?

10 A. No.

11 Q. Did you think Gary was acting pretty normal on the

12 ride home?

13 A. Yes.

14 Q. Now, when you got back to the house, had Gary told

15 you where your mom was and where your sister was?

16 A. He told us while we was in the car.

17 Q. Okay. And what -- what -- first of all, where did

18 he tell you your mom was?

19 A. At the club.

20 Q. And where did he tell you that Jazzmen was?

21 A. With my granny.

22 Q. So when you got back to the house that night, you

23 thought it was just going to be you and JT and Gary for a

24 while; is that correct?

25 A. Yes.

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1 Q. And once you got inside, where did -- where did Gary

2 park the PT Cruiser?

3 A. In the garage.

4 Q. Once you got inside, where did -- what did Gary tell

5 JT to do?

6 A. Take his bath.

7 Q. Okay. And what did he tell you to do and where did

8 you go once you got inside the house?

9 A. Went to my room and changed -- changed out of my

10 clothes and put on my sleeping clothes.

11 Q. Okay. And as you were -- as you went back to your

12 bedroom, were you actually able to change out of your --

13 A. Yes.

14 Q. -- clothes?

15 A. Yes.

16 Q. So you had your sleeping clothes on?

17 A. Yes.

18 Q. After you put your sleeping clothes on, did Gary

19 call you?

20 A. Yes.

21 Q. And where was Gary when he called you to come and

22 see him?

23 A. Walking to -- walking -- walking to my -- he was in

24 front of my door.

25 Q. And did you follow Gary?

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1 A. Yes.

2 Q. Where did you follow him to?

3 A. In the kitchen.

4 Q. Just tell the members of the jury, what -- what did

5 Gary do to you once you got to the kitchen?

6 A. He -- he talked about me. He talked to me about

7 school, and then -- then he said that -- then I explained to

8 him what happened.

9 Q. Okay. And that's why he was talking to you about

10 why you got in trouble at school?

11 A. Yes.

12 Q. And after you explained to him what happened, what

13 happened after that?

14 A. He grabbed -- grabbed me by my -- my -- like this to

15 where I couldn't breathe, and then I -- then he slid down on

16 the counter and then kept moving his hand yelling for my

17 brother and then he stabbed me.

18 Q. Where did he stab you?

19 A. On -- close to my side.

20 Q. And could you actually feel the knife going in?

21 A. No.

22 Q. You told me it kind of tickled or something,

23 didn't -- didn't you?

24 A. Yes.

25 Q. Is that what it felt like?

1 A. Yes.
2 Q. Now, at some point in time did he bring the knife up
3 to your neck area?
4 A. Yes.
5 Q. When was that?
6 A. When we was going to -- to the restroom.
7 Q. And what did you feel on your neck at that time?
8 A. He -- he was trying to slice my neck.
9 Q. And what side of the knife was against your skin?
10 A. Right here.
11 Q. Okay. Did he have the sharp side or the dull side
12 against --
13 A. The dull side.
14 Q. And that saved your life, don't you think?
15 A. Yes.
16 Q. What were you screaming then when you got a chance?
17 What were you hollering once Gary stabbed you and he tried to
18 cut your -- cut your neck?
19 A. Well, we were in the kitchen, and I kept -- he was
20 -- when he slid down, I kept moving his hand, yelling for JT.
21 I said -- I said, JT, JT, help, help. And then JT didn't -- JT
22 must have didn't know what I meant. Then I said -- then I
23 moved his hand again and I said, JT, help, he trying to kill
24 me. And then my brother came out of the restroom.
25 Q. And were you trying to break free from Gary or get

1 away from him?
2 A. Yes.
3 Q. He's bigger than you, obviously, right?
4 A. Yes.
5 Q. But you didn't have any -- you didn't have any duct
6 tape on you, did you?
7 A. No.
8 Q. You didn't have any duct tape on your mouth or your
9 hands or your feet, so you were able to move around and try to
10 get away from him; is that right?
11 A. Yes.
12 Q. And did you end up back in your bathroom where JT
13 was taking a bath?
14 A. Yes.
15 Q. What happened once you got back to the bathroom?
16 A. I got pushed into the restroom, and then I almost
17 hit the toilet. And then he tried to slice my neck again.
18 Q. In the bathroom there?
19 A. (Nods head.)
20 Q. At some point in time, Jerrett, was Gary asking you,
21 give me some reasons why I shouldn't kill you? Do you remember
22 him asking you that?
23 A. Yes.
24 Q. And were you doing most of the talking, little guy?
25 A. Yes.

1 Q. And JT, your bigger brother, was just kind of in the
2 shower just -- he couldn't talk at all, could he?
3 A. Yes.
4 Q. Now, you're very soft spoken right now. Try to keep
5 your voice up a little bit.
6 What kind of reasons were you trying to give
7 Gary that -- that night in the bathroom that -- you know,
8 you're nine years old, what were you trying to convince Gary as
9 to why he shouldn't kill you?
10 A. Told him because we're too little to die and we
11 won't tell anybody about it.
12 Q. Did you ever tell him that you did love him there in
13 the bathroom?
14 A. Yes.
15 Q. And for some reason, whatever you told him there,
16 Gary stopped trying to cut you; is that right?
17 A. Yes -- no.
18 Q. He try one more time?
19 A. (Nods head up and down.)
20 Q. Where did -- did he get you one more time?
21 A. No, he didn't get me.
22 Q. He tried to cut JT?
23 A. No, he tried to cut me. When we was walking to my
24 mom's room, he pushed my neck, and -- but it didn't work.
25 Q. Okay. At some point in time he stopped trying to

1 cut you; is that right?
2 A. Yes.
3 Q. He took you back to your mom's bedroom?
4 A. (Nods head up and down.)
5 Q. Is that right?
6 A. Yes.
7 Q. What did you see when you got back to your mom's
8 bedroom?
9 A. Our mom -- our mom's body and my -- and our
10 sister's.
11 Q. Did Gary change clothes back there in the bedroom?
12 A. Yes.
13 Q. And did you actually -- did you help him find some
14 clothes or get some clothes for him?
15 A. No.
16 Q. He got his own clothes?
17 A. (Nods head.)
18 Q. Do you remember what clothes he put on?
19 A. Yes.
20 Q. What did he put on?
21 A. Some of the clothes -- one of his outfits -- one of
22 his clothes that he would wear all the time, a white -- a white
23 shirt and an orange -- with orange pants.
24 Q. Okay. Now --
25 A. Orange shorts.

1 Q. Kind of checkered orange shorts?

2 Now, why did Gary tell you that he had to kill

3 your mom? Why did Gary tell you he had killed your mom?

4 A. Because she was fixing to divorce him and he -- and

5 he said he loved her to death and he didn't want her to

6 divorce -- he didn't want her to divorce him.

7 Q. Did he say anything about why he killed Jazzmen?

8 A. Yes.

9 Q. What did he tell you about that?

10 A. Well, he didn't say nothing. We thought that

11 because he killed Jazzmen, that because he -- that Jazzmen was

12 going to tell it.

13 Q. She was a witness?

14 A. Yes.

15 Q. And that's what you thought?

16 A. But that's what my brother know.

17 Q. Did Gary -- eventually after he changed his clothes,

18 did Gary leave the house that night?

19 A. Yes.

20 Q. What did he tell you to do with regards to calling

21 the police once he left the house?

22 A. He said call the police and then he said -- then he

23 said, y'all know when I tell y'all -- he said, y'all know --

24 y'all know when I tell y'all to never say good-bye, and we

25 said, yes. And he then he said, well, this is a good-bye, and

1 then I started crying again because I loved him to death.

2 Q. And when he told you that -- when Gary told you

3 that, you took that to mean that he was leaving for good?

4 A. Yes.

5 Q. And he said something about trying to kill himself?

6 A. Yes.

7 Q. And did Gary finally drive off in your mom's car?

8 A. Yes.

9 Q. At this time, Jerrett, your mom there and your

10 sister there and just the emotion of everything that happened

11 to you, did you really know that you were hurt at that point in

12 time?

13 A. Yes.

14 Q. What -- what -- what was going on with your stomach

15 at that time?

16 A. It started hurting, and then my blood just started

17 getting worser and worser.

18 Q. And did you and JT then take the phone and

19 eventually did you go next door and knock on Tasha's door?

20 A. Yes.

21 Q. The jury has heard all about what happened over

22 there and they've heard you on the 911 call. Did they take you

23 to the hospital eventually once the ambulance got out there?

24 A. Yes.

25 Q. And they did surgery on you out there at Children's;

1 is that correct?

2 A. Yes.

3 Q. Now, can you step down for just a second, and we'll

4 be done, okay?

5 (Witness leaves the stand.)

6 Q. (BY MR. BEACH) Just come right here. Now, you're a

7 little flat bellied fellow, so you shouldn't be embarrassed.

8 Can you pull your shirt up and show the jury where your scar is

9 from the stab wound?

10 A. (Witness complies)

11 Q. And they went in and did surgery and made sure you

12 were okay; is that correct?

13 A. Yes.

14 Q. Do you have any kind of scars from your neck where

15 he was trying to hurt you on your neck? Right there?

16 A. Yes.

17 Q. Why do you think it was the dull side and not the

18 sharp side?

19 A. Because he was -- he was sticking his -- we were on

20 the ground and he was reaching up his hand to get a knife and

21 he thought that he was -- get the sharp side, but he got the

22 dull side.

23 Q. Thank you for coming down here. I appreciate you

24 coming down. I appreciate you being strong.

25 A. You're welcome.

1 MR. JOHNSON: We have no questions, Your Honor.

2 THE COURT: All right. Thank you very much for

3 coming down.

4 THE WITNESS: You're welcome.

5 THE COURT: We'll see you later.

6 (Witness brought forward and sworn.)

7 THE WITNESS: Yes, sir, I do.

8 THE COURT: Please have a seat.

9 JASON GINDRATT,

10 was called as a witness by the State, and after having been

11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. BEACH:

14 Q. Tell us your name, please.

15 A. My name is Detective Jason Gindratt with the Dallas

16 Police Department.

17 Q. Back on September 21st of 2009, what were your daily

18 responsibilities and duties?

19 A. At the time I was a detective in the Crime Scene

20 Section. That basically included us going out to crime scenes

21 of offenses and processing the scene, whether it be taking

22 pictures or collecting evidence.

23 Q. And were you dispatched to a location about 9:40

24 that night, 3844 Morning Springs Trail?

25 A. Yes.

1 Q. And were you working alone that night, or did you
2 have a partner?
3 A. That night Detective Will Vick responded out there
4 with me. We pretty much took care of the scene together.
5 Q. Now, when you -- just walk us through very briefly
6 when you get out to a crime scene like that and by the time you
7 get out there, you know it's a homicide; is that correct?
8 A. Yes, sir.
9 Q. What is your -- just procedure in terms of how you
10 conduct your investigation once you get to a crime scene like
11 that?
12 A. Well, when we get there, we basically make sure that
13 the scene is secured. At the time the homicide detectives had
14 already been out there, so we basically walked the scene with
15 them after it's been secured, see -- see what's there, see just
16 the over -- overall look at the scene, and see what evidence,
17 if any, needs to be collected.
18 Q. And at some point in time was there a decision made
19 to go ahead and get a search warrant before you went back and
20 fully conducted your investigation?
21 A. Yes.
22 Q. So did you pull back outside the house and wait for
23 the search warrant --
24 A. Yes, we --
25 Q. -- to arrive?

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1 A. Yes, we did.
2 Q. And after about 1 o'clock in the morning of
3 September 22nd, then did y'all go back inside and start your
4 actual investigation?
5 A. Yes.
6 Q. So you're looking for evidence; is that correct?
7 A. Yes.
8 Q. Looking for instrumentalities of the crime?
9 A. Yes.
10 Q. And once you make your full search of the house,
11 then what's the next step in terms of your investigation?
12 A. Once we do the initial walk-through, we -- like you
13 said, we identify any particular instruments or evidence. We
14 basically -- then we go back through and take photographs. And
15 after we take the overall photographs, we go back through and
16 mark all pieces of evidence that we plan to collect. Then we
17 go back through and take photographs again of all those that
18 we've marked for collection.
19 Q. And you, at our request, generated the crime scene
20 diagram in that case; is that correct?
21 A. Yes. We also took a -- after that, we go back
22 through the walk-through, I do a general drawing of the layout.
23 And then after that, we go back through and pick up all the
24 evidence.
25 Q. Now --

1 MR. BEACH: Judge.
2 Q. (BY MR. BEACH) The jury has seen the diagram
3 previously, Detective. It's not to scale; is that correct?
4 A. Yes, that's correct.
5 Q. And -- but it does fairly and accurately just
6 represent the layout of the house out there on Morning Trail
7 Springs?
8 A. Yes, it does.
9 Q. Where the dining room was, the kitchen, the living
10 room, both bathrooms, and the master bedrooms; is that correct?
11 A. That's correct.
12 Q. And on the diagram, State's Exhibit 9, you have a
13 number of items listed out to the left side in terms of what
14 evidence was collected out there at the scene.
15 A. That is correct.
16 Q. Is it fair to say a number of knives and knife
17 blades and knife handles were collected out there at the scene?
18 A. Yes.
19 Q. All right. You told us you took some photographs;
20 is that correct?
21 A. That is correct.
22 Q. Is it fair to say you took, in a situation like
23 this, a lot of photographs?
24 A. I took a lot of photographs of that scene.
25 Q. We've got it culled down to State's Exhibits 20

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1 through 62, approximately, if my math is anywhere close --
2 about 43 exhibits. You took more than 43 photographs; is that
3 right?
4 A. Yes.
5 MR. BEACH: Could we have the lights, Judge?
6 Q. (BY MR. BEACH) I'm showing you State's Exhibit 20.
7 Again, this is a -- just a look at the outside of the front of
8 3844 Morning Springs Trail?
9 A. Yes, it is.
10 Q. Again, for the record, that location at 3844 Morning
11 Springs Trail, that's located in the City of Dallas, Dallas
12 County, Texas?
13 A. Yes, it is.
14 Q. Okay. As you go in the front door in State's
15 Exhibit 21, just to the right of the front door, what door do
16 we see?
17 A. That is the door leading to the garage.
18 Q. So front door immediately to your right as you walk
19 is the door to the garage?
20 A. Yes.
21 Q. Just point there, the garage door. No, you can
22 point on the screen there. You've got a little pointer there
23 or your finger, either one.
24 A. Okay.
25 Q. That goes into the garage; is that correct?

1 A. Yes.
2 Q. Next. Is that a view inside the garage there at
3 3844 Morning Springs Trail?
4 A. Yes, it is.
5 Q. That's looking from the door you just pointed to?
6 A. Yes.
7 Q. Okay. State's 23 is a photograph of the kitchen?
8 A. Yes.
9 Q. State's 24 is a photograph of a garbage can knocked
10 over; is that correct?
11 A. Yes, it is.
12 Q. What do we see here in State's 25?
13 A. We see a knife block with several knives in it, and
14 several knives missing. That was on the counter of the
15 kitchen.
16 Q. Okay. Next. From the top now do we actually see at
17 least three or four slots of knives missing from that -- from
18 that butcher block?
19 A. Yes, we do.
20 Q. State's 27, another photograph of the kitchen; is
21 that correct?
22 A. Yes.
23 Q. State's 28 is a photograph of the inside of one of
24 the kitchen drawers?
25 A. Yes.

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1 Q. The various knives and -- is that correct?
2 A. Yes, sir.
3 Q. All right. What do we see in State's 29?
4 A. We see a knife that was located on the kitchen
5 counter.
6 Q. You've got that yellow cone with five on it. What
7 is the significance of that?
8 A. That identifies it as the fifth item that we're
9 marking.
10 Q. And on -- just a second. On the -- again, on the
11 left side of your crime scene diagram, you have 25 items, so
12 that knife there would be Item Number 5 on your crime scene
13 diagram?
14 A. Yes, it would.
15 Q. Next. Another knife there underneath the microwave;
16 is that correct?
17 A. Yes.
18 Q. And that's Item Number 6?
19 A. Yes, sir.
20 Q. Next. Now, we have a view looking -- basically
21 again the front door, kitchen on the left, living room on the
22 right, down the hall leading to the bedrooms; is that correct?
23 A. That's correct.
24 Q. Okay. And State's 32 shows the TV on; is that
25 right?

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1 A. Yes.
2 Q. I don't mean to be silly, but the police wouldn't
3 have turned that on when they went out there?
4 A. No.
5 Q. You're photographing it just as it would have been
6 just as the police officer would have gone in there?
7 A. Yes, sir.
8 Q. Next. Under one of the couch cushions you found
9 another knife; is that correct?
10 A. Yes.
11 Q. And that's your Item Number 8?
12 A. Yes, sir.
13 Q. Next. This is a view from the boys' bedroom. They
14 got bunk beds in there; is that correct?
15 A. Yes.
16 Q. Looking across the hall into their bathroom; is that
17 right?
18 A. Yes.
19 Q. In the boys' bathroom, you have Item 24. That's a
20 broken off knife; is that correct?
21 A. Yes.
22 Q. Blood spot on the shower curtain there in the boys'
23 bathroom?
24 A. Yes.
25 Q. Just another scene of the bathroom as it -- as it

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1 appeared to you with clothes and socks and things like that on
2 the floor?
3 A. Yes, sir.
4 Q. State's 33; is that right? 38. Piece of knife
5 blade that was broken off; is that correct?
6 A. Yes.
7 Q. Now we go back to the hallway, and could you just
8 point again with that pointer the door leading into the boys'
9 bathroom?
10 A. This door right here.
11 Q. Okay. And at the end of the hall there, that's
12 going to be the wall that's part of the little girl's bedroom;
13 is that correct?
14 A. Right here, yes, sir.
15 Q. And that last door on the left, that leads into the
16 master bedroom?
17 A. Yes, sir, right here.
18 Q. Next. As you first come around that corner of the
19 door and make that left-hand turn, we see a number of item
20 markers in that photograph; is that correct?
21 A. Yes, sir.
22 Q. And that's State's what?
23 MR. HEALY: 41.
24 Q. (BY MR. BEACH) That's State's Exhibit Number 41?
25 On the bed just from this distance is readily

1 apparent right in the middle of the bed, looks like some pieces
 2 of paper; is that correct?
 3 A. That's correct.
 4 Q. That's going to be your Item Number 11?
 5 A. Yes.
 6 Q. And that turned out to be a handwritten letter; is
 7 that correct?
 8 A. Yes.
 9 Q. Next. This is a close-up of the handwritten letter,
 10 your Item Number 11, and in this trial State's Exhibit
 11 Number -- State's Exhibit Number 7; is that correct?
 12 A. Yes, sir.
 13 Q. And that appears to be a bloodstain on -- on the
 14 letter?
 15 A. Yes.
 16 Q. And that was pretty much found right in the middle
 17 of the bed in the master bedroom?
 18 A. Yes, sir.
 19 Q. Next. State's 43, what's the significance of that
 20 photograph?
 21 A. That's Item Number 13, and right there to the left
 22 of the sign is another knife and a knife blade, so I believe I
 23 had another angle of that.
 24 Q. State's 44 shows the knife -- the knife blade that
 25 you just described?

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1 A. Yes, sir.
 2 Q. That's going to be your item exhibit or Item Number
 3 13?
 4 A. Yes. Yes, sir.
 5 Q. Next. Looking at State's 45, is this a view someone
 6 would have had from that bed in the master bedroom into the
 7 master bath?
 8 A. Yes.
 9 Q. And if you were on that bed looking through the door
 10 of the bathroom, you would have that very view?
 11 A. Yes.
 12 Q. Next. State's 46 depicts just the condition -- part
 13 of the condition of that master bathroom?
 14 A. Yes.
 15 Q. How would you describe -- just in general,
 16 Detective, how would you describe this scene in that bathroom?
 17 A. I would describe it as very bloody. Blood was
 18 smeared everywhere. There were several items that we found
 19 that were used during the offense, as well, so it -- it was
 20 basically part of -- definitely part of the main offense where
 21 that occurred at.
 22 Q. And that little girl is laying there in the floor;
 23 is that right?
 24 A. Yes, sir, that is her on the side of the bathtub on
 25 the floor.

1 Q. Next. State's 47, another view of the little girl
 2 laying face down in the floor; is that correct?
 3 A. Yes, sir.
 4 Q. Does she appear to be laying on top of some kind of
 5 clothing?
 6 A. Yes.
 7 Q. Do you remember, Detective, was any part of her or
 8 the clothing underneath her still wet?
 9 A. Yes.
 10 Q. Next. State's 48, another view of the bathroom; is
 11 that correct?
 12 A. Yes, sir.
 13 Q. Next. State's 49, does it show where the commode
 14 lid once was on top of the commode and the -- its final resting
 15 place?
 16 A. Yes.
 17 Q. Is there a lot of blood back in that toilet area?
 18 A. Yes, sir.
 19 Q. Pool of dried blood?
 20 A. Yes, sir, and several pieces of the broken top.
 21 Q. What do we see in State's 50?
 22 A. We see the roll of duct tape that was on the
 23 counter.
 24 Q. And that's going to be your Item 17?
 25 A. Item Number 17, yes, sir.

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1 Q. Next. Item 18 is going to be an orange T-shirt?
 2 A. Yes, sir. That was also located on the bathtub -- I
 3 mean, the bathroom counter.
 4 Q. Sink counter?
 5 A. Sink counter, and it also had a couple of holes in
 6 it, as well.
 7 Q. And then in State's 52 we see the -- the defects in
 8 that -- that orange man's T-shirt; is that correct?
 9 A. Yes, sir.
 10 Q. Next. State's 53, what is underneath the bath mat
 11 there as your Item 19?
 12 A. That's another knife blade that we located.
 13 Q. And was it the blade itself or was it attached to a
 14 knife handle?
 15 A. I believe it was just the blade itself.
 16 Q. Pretty good size blade?
 17 A. Yes, sir.
 18 Q. Next. Knife handle -- your Item 20; is that
 19 correct?
 20 A. Yes, sir, two knife handles.
 21 Q. Two knife handles.
 22 Next. 21, what does that depict?
 23 A. That's part of the broken pieces of the toilet top.
 24 Q. That's State's 55, your Item 21.
 25 Next. What do we see in State's 56?

1 A. Twenty-three, that was a piece of metal. We weren't
2 exactly sure if it was part of a blade or a spoon, but it is
3 definitely a piece of broken off metal.
4 Q. Next. Another view in State's 57?
5 A. Yes, sir.
6 Q. Next. State's 58 shows some of the blood dripping
7 down the sink cabinet?
8 A. Yes, sir.
9 Q. Now, in State's 59, at this time, is it true,
10 Detective, that Ms. Armstead's body had been moved from her
11 original position; is that correct?
12 A. Yes, sir, that is.
13 Q. Now she's laying basically parallel to the bed and
14 parallel to that exercise machine; is that right?
15 A. Yes, sir.
16 Q. And it does not appear to be nearly as much blood
17 underneath where she was compared to the blood you saw in the
18 bathroom?
19 A. No, sir.
20 Q. Next. Again, once she was turned over, you're
21 looking for evidence of injury; is that correct?
22 A. Yes, sir.
23 Q. Next. And you have a little dried trickling of
24 blood out of one of the back wounds when you turn her over?
25 A. Yes, sir.

1 Q. No active bleeding, obviously, at that time?
2 A. Not at that time.
3 Q. Next. And the little girl, once you turned her
4 over, she had this -- this foamy substance coming out of her
5 nose; is that correct?
6 A. Yes, sir, out of her nose, and there was a little in
7 her mouth, as well.
8 Q. And you didn't find any evidence of stab wounds,
9 obviously, gunshots, anything like that on the little girl?
10 A. No, sir.
11 Q. And you collected, again, a number of items of
12 evidence at the scene, and we're not going to go through all of
13 them, but --
14 MR. BEACH: Is 63 the first one?
15 MR. HEALY: Yes.
16 Q. (BY MR. BEACH) State's 63, your Item Exhibit Number
17 5, that was found in the kitchen; is that correct?
18 A. Yes, sir.
19 Q. Sixty-four, your Item 6, that was found also in the
20 kitchen underneath the microwave; is that right?
21 A. Yes, sir.
22 Q. State's Exhibit 65, your Item Number 24, that's the
23 broken off knife that you found in the boys' bathroom?
24 A. Yes, it is.
25 Q. Item 66, that's going to be the knife and the knife

1 blade that you found on top of the TV cabinet, your Item Number
2 13?
3 A. Yes, sir.
4 Q. State's Exhibit 67 is going to be your Item Number
5 19, that large broken off blade that you found underneath the
6 bath mat in the master bathroom; is that correct?
7 A. Yes, it is.
8 Q. State's Exhibit 68 is going to be what you couldn't
9 really tell was either a knife or a kitchen utensil?
10 A. Yes.
11 Q. And State's 69 is going to be the -- your Item
12 Number 8, the knife that you found underneath the couch cushion
13 in the living room?
14 A. Yes, it is.
15 Q. And State's Exhibit 70, Item Number 17, the roll of
16 duct tape you found in the master bathroom?
17 A. Yes, sir.
18 Q. And obviously, all of these exhibits were seized out
19 there at the crime scene by yourself and your partner and
20 preserved for future purposes; is that correct?
21 A. Yes, sir.
22 MR. BEACH: That's all I have, Judge.
23 MR. JOHNSON: No questions.
24 THE COURT: Thank you very much, sir. You may
25 step down. Do you mind grabbing all that and just handing it

1 back to the court reporter?
2 MR. BEACH: We call Officer Jen -- excuse me,
3 Whitsitt, Your Honor.
4 Could we have a brief recess, Judge, five
5 minutes?
6 (Jury excused from courtroom.)
7 THE BAILIFF: All rise.
8 (Jury returned to courtroom.)
9 THE COURT: Thank y'all. Please be seated.
10 MR. BEACH: Call Officer Smith.
11 THE COURT: Sir, if you would --
12 (Witness brought forward and sworn.)
13 THE COURT: Please have a seat.
14 TROY SMITH,
15 was called as a witness by the State, and after having been
16 first duly sworn, testified as follows:
17 DIRECT EXAMINATION
18 BY MR. BEACH:
19 Q. Tell us your name, please.
20 A. Officer Troy Wayne Smith.
21 Q. And, Officer Smith, how long have you been with the
22 Dallas Police Department?
23 A. Twenty-two years.
24 Q. Back in September of 2009, to what division were you
25 assigned?

1 A. Southeast Patrol Division.

2 Q. And what were and what are your responsibilities

3 with Southeast Patrol?

4 A. Answer -- basically call answer for Southeast Patrol

5 Division, first responder.

6 Q. About 2:15 a.m., were you on duty the early morning

7 hours of September the 22nd of 2009?

8 A. Yes, I was working police -- inside the police

9 station at Southeast.

10 Q. And who else was there with you, sir?

11 A. Officer Tom Mortl.

12 Q. And this is a Monday night, going into Tuesday

13 morning. Not too many folks that are hanging around the

14 substation at that time?

15 A. No, between midnight to 8:00, it's quiet working in

16 the station, other than answering the phones.

17 Q. About 2:15 a.m., did three individuals walk into the

18 Southeast Substation, sir?

19 A. Yes, one older female and two gentlemen.

20 Q. And do you see here in court today, Officer Smith,

21 one of the men that walked in that morning and eventually you

22 ended up arresting and taking to Parkland Hospital?

23 A. Yes.

24 Q. Is he the man in the navy blue suit at the end of

25 the counsel table?

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1 A. Yes.

2 Q. Is he a man that you came to know that night as Gary

3 Green?

4 A. Correct.

5 Q. So Gary, his mother, and his brother that you

6 learned, is that correct, Nysasno?

7 A. Yes.

8 Q. They walk in together, and just very briefly

9 describe the -- the setup inside that front door area.

10 A. Once you come into the Southeast Patrol Station, you

11 come into a glass door. In between the glass door -- and it's

12 a secure area. It's probably a space of 15-square foot,

13 because you have no -- no admittance into the secure area, so

14 everything is handled right through a glass window with a

15 speaker.

16 Q. So are you talking -- who's doing the talking

17 initially?

18 A. I -- I talked to the mother, yes.

19 Q. So you and the mom are talking; is that correct?

20 A. Correct.

21 Q. Through the glass?

22 A. Correct.

23 Q. At some point in time do you go around and go out

24 and talk to her in another location?

25 A. Sometimes it's hard to hear through that little

1 speaker thing, since it's 20 years old, at the station. She

2 mentioned her son might have been involved in a murder, so at

3 that time I went outside the secured door and talked with her.

4 Q. At that point in time, Officer, were you and Officer

5 Mortl aware of a double homicide that occurred on another

6 channel earlier that same night?

7 A. No, we were totally -- we didn't have no clue what

8 was going on that night.

9 Q. So you didn't know if she was pulling your leg, you

10 didn't know what the situation is, and that's why you came

11 around to investigate it further?

12 A. Correct.

13 Q. And just to get through this as quickly as we can,

14 were you and Officer Mortl eventually able to confirm that Gary

15 Green was wanted for a double murder over in the Oak Cliff

16 section of town?

17 A. We confirmed, with the information we had, he was a

18 suspect of a murder that occurred in Oak Cliff.

19 Q. And once you confirmed that, did you place Gary

20 Green under arrest?

21 A. After that, we confirmed it through the channels, we

22 placed him under arrest in front of the unsecured area of the

23 police station.

24 Q. And the time it took -- you know, from when they

25 first walk in, the three of them, the mother and the two

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1 brothers walk in, the time you place him in handcuffs, can you

2 just give us an estimate of how long we're talking about?

3 A. Trying to get ahold of certain investigative units

4 to confirm that he was a suspect in a murder and getting a

5 supervisor toward the front trying to make some phone calls for

6 us, I would say anywhere between 15, 20 minutes before we

7 actually placed him under arrest.

8 Q. And the Defendant remained there in the outer area

9 of the -- that outer area the entire time?

10 A. Yes.

11 Q. Never gave you any problems, didn't try to run,

12 nothing like that?

13 A. No. The only time we moved from that area is when

14 he had a small cut on the back of his back. We notified DFD.

15 The Fire Department arrived, and we walked him outside to the

16 back of the ambulance.

17 Q. He's handcuffed at that point in time; is that --

18 A. Correct.

19 Q. And you walk out to the ambulance with -- with the

20 Defendant?

21 A. Correct.

22 Q. Is he able to walk on his own, or are you having to

23 help him out there?

24 A. No, he walked to the back of the ambulance on his

25 own.

1 Q. Did you have any problems just doing basic
 2 communication with him, any problem with him following your
 3 commands, anything like that?
 4 A. No, he -- he responded to us, all commands and
 5 everything.
 6 Q. And did you assign an officer to ride with the
 7 Defendant in the back of the ambulance to go to Parkland
 8 Hospital?
 9 A. Yeah, because I still had to make some contacts.
 10 Officer Kirchdurfer, he rode in the back of the ambulance. We
 11 assigned him to ride in the back of the ambulance, and we had
 12 an element follow -- two other officers follow behind in a
 13 police car because we didn't know -- based on the situation, we
 14 didn't know how he was going to respond.
 15 Q. And did you eventually make your way to Parkland
 16 Hospital that night?
 17 A. Correct.
 18 Q. And we've heard from Dr. Martinez. The Defendant
 19 was discharged from Parkland around 7:00 that morning. How did
 20 the Defendant, Gary Green, get from Parkland Hospital down to
 21 the police station on Lamar?
 22 A. Once the doctor signed off on his release, we took
 23 him, along with his paperwork, up to the Homicide Unit at 1400
 24 South Lamar.
 25 Q. And how was Green transported from the emergency

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1 room to your squad car?
 2 A. He basically walked out of the hospital on his own
 3 in handcuffs.
 4 Q. Again, any trouble walking from the ER to your car?
 5 A. No, sir.
 6 Q. Any trouble following your commands? Any indication
 7 that he wasn't oriented to time, place, and person?
 8 A. No, sir.
 9 Q. And for the folks that don't know, once you get to
 10 the Crimes Against Person Section or get to the police station
 11 there on Lamar, where do you pull into?
 12 A. There at the main police headquarters where homicide
 13 is located, we pull into a sally port which is underneath the
 14 building which is a secure area.
 15 Q. And get him out of the car, elevator him up to which
 16 floor, do you recall?
 17 A. I believe it's the 5th floor, I believe.
 18 Q. And then you release him into the custody of the
 19 homicide detectives?
 20 A. Well, at that point in time, once we get there, we
 21 place him inside the interview room, and the detective takes
 22 over the investigation and questioning at that time.
 23 MR. BEACH: That's all I have, Judge.
 24 THE COURT: Cross.
 25 CROSS-EXAMINATION

1 BY MR. JOHNSON.
 2 Q. Officer Smith, you said that he was transported to
 3 Parkland. What was the reason he was transported to Parkland?
 4 A. Because of the cut on his back.
 5 Q. Okay. Was it a single cut, or was it more than one
 6 cut?
 7 A. I don't recall, but I believe it was one.
 8 Q. And also, did you have a conversation with the
 9 Defendant, or did you become aware of the fact that he had
 10 ingested quite a few pills?
 11 A. I don't recall if we had that conversation or not,
 12 but we dealt mostly with his mother.
 13 Q. Okay. Well, the prosecutor was asking you a
 14 question a moment ago about whether or not the Defendant was
 15 acting and responding in a normal fashion. You had indicated
 16 to his questions that you believed that he was; is that
 17 correct?
 18 A. Believe that he was what?
 19 Q. That he was responding and -- and following commands
 20 in a normal fashion; is that right?
 21 A. Yes, he -- he -- he did everything we asked of him.
 22 Q. Okay. But, in fact, you really had no conversation
 23 with him, did you?
 24 A. No, sir, we did not, other than us giving him
 25 certain things and telling him where to go, that's how he

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1 responded.
 2 Q. Okay. So he responded to what you told him, but he
 3 didn't respond -- in response -- he didn't make oral statements
 4 to you in response to anything you asked him, did he?
 5 A. No, we didn't ask no questions due to the fact
 6 because it was a double homicide.
 7 Q. And how was -- and how was his affect at that time?
 8 How was he -- how was he acting at that time?
 9 A. I'd say a little depressed, down.
 10 Q. And you're saying that you don't recall anything
 11 being said in regards to him having ingested any pills?
 12 A. I don't recall it, but in a situation like that, I
 13 don't believe the cut was minor. And DFD -- they instructed us
 14 that he needed to go to Parkland, so that's one reason why we
 15 went Parkland, based on DFD's information, also.
 16 Q. Officer, if I show you -- you made a report that
 17 night, did you not?
 18 A. I just made a -- small investigative notes to
 19 homicide -- to homicide detectives.
 20 Q. Let me ask you to -- if that's a copy of that report
 21 that you made?
 22 A. Yes, sir.
 23 Q. Let me ask you -- take your attention here to this
 24 portion that's highlighted --
 25 A. Which, top or bottom?

Q. Right there in the middle.

A. Okay.

Q. And if you'll read through that real quick.

A. Yes, okay.

Q. In fact, does that reflect that in -- does that help you refresh your memory --

A. Yes, sir.

Q. -- as to what you had been told that night?

A. Yes.

Q. And does it, in fact, reflect that the Defendant had more than one wound to his back?

A. Yes, sir.

Q. And also, does it reflect that you had information at that time that he had, in fact, ingested a number of pills?

A. Correct, sir.

Q. Was that the reason that y'all had transported him then?

A. Well, based on -- on the wounds and the pills would be the reason why we transported him.

Q. You normally wouldn't transport someone to Parkland in response to a superficial wound, would you?

A. When we -- when we transport to Parkland, we don't transport for superficial wounds or nonlife-threatening. We only transport to Parkland when DFD gives clear. If it's life-threatening or something like that, DFD takes the

in recess.

THE BAILIFF: All rise.

(Jury excused from courtroom.)

(Recess of proceedings.)

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1 initiative and they do the transport.

Q. So someone out there made the decision that there was a need for transport to Parkland at that time?

A. Well, we made the decision to transport to Parkland because if there's an injury or they've taken pills up in our jail, the jail nurses up there will not take him. So they're going to -- they're going to automatically send you to Parkland.

Q. Okay.

MR. JOHNSON: That's all I have, sir. Thank you.

MR. BEACH: Nothing else, Judge. Thank you.

THE COURT: Thank you. You may step down.

MR. BEACH: May he be excused?

THE COURT: Yeah. You can be excused.

All right. Ladies and gentlemen, we're going to break for the day. We'll start back up tomorrow morning at 9:30. As you can see or feel, the temperature in here ranges. Bring a sweater, bring a sweatshirt, something you can take on, off. I really don't have any control over -- I figure -- I guess we figured out a way to make it colder, but I just can't do anything else. Sorry. So feel free to bring your morning coffee in in the morning or whatever else you want to have to drink.

So until tomorrow morning at 9:30. The Court's

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Reporter's Certificate

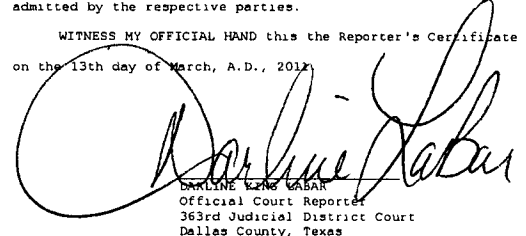
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I, Darline King LaBar, Deputy Official Court Reporter in and for the 282nd District Court of Dallas County, State of Texas, do hereby certify that the above and foregoing volume constitutes a true, complete and correct transcription of all portions of evidence and other proceedings requested in writing by counsel for the parties to be included in the Reporter's Record, in the above-styled and numbered cause, all of which occurred in open court or in chambers and were reported by me.

I further certify that this Reporter's Record of the proceedings truly and correctly reflects the exhibits, if any, admitted by the respective parties.

WITNESS MY OFFICIAL HAND this the Reporter's Certificate on the 13th day of March, A.D., 2012.



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